

GOV DOCS
TD8.6/2: 984
Pt.1



curate descriptions and environmental considerations, site visits should be made where appropriate.

(3) The statement should identify, as appropriate, population and growth characteristics of the affected area and any population and growth assumptions used to justify the project or program or to determine secondary population and growth impacts resulting from the proposed action and its alternatives (see paragraph 3c(2)). In discussing these population aspects, the statement should give consideration to using the rates of growth in the region of the project contained in the projection compiled for the Water Resources Council by the Bureau of Economic Analysis of the Department of Commerce and the Economic Research Service of the Department of Agriculture (the OBERS projection).

(4) The sources of data used to identify, quantify, or evaluate any or all environmental consequences must be expressly noted.

b. The relationship of the proposed action and how it may conform to or conflict with adopted or proposed land use plans, policies, controls, and goals and objectives as have been promulgated by affected communities. Where a conflict or inconsistency exists, the statement should describe the extent of reconciliation and the reasons for proceeding notwithstanding the absence of full reconciliation.

c. The probable impact of the proposed action on the environment. (1) This requires assessment of the positive and negative effects of the proposed action as it affects both national and international human environment. The attention given to different environmental factors will vary according to the nature, scale, and location of proposed actions. Among factors to be considered should be the potential effect of the action on such aspects of the environment as those listed in Attachment 2, and in section 520.5(b), *supra*. Primary attention should be given in the statement to discussing those factors most evidently impacted by the proposed action.

(2) Secondary and other foreseeable effects, as well as primary consequences for the

environment, should be included in the analysis. Secondary effects, such as the impact on fuel consumption, emissions, or noise levels of automobiles or in the use of toxic or scarce materials, may be more substantial than the primary effects of the original action.

d. Alternatives to the proposed action, including, where relevant, those not within the existing authority of the responsible preparing office. Section 102(2)(D) of NEPA requires the responsible agency to "study, develop, and describe appropriate alternatives to recommend courses concerning alternative uses of available resources." A rigorous exploration and an objective evaluation of the environmental impacts of all reasonable alternative actions, particularly those that might enhance environmental quality or avoid some or all of the adverse environmental effects, are essential. Sufficient analysis of such alternatives and their environmental benefits, costs, and risks should accompany the proposed action through the review process in order not to foreclose prematurely options which might enhance environmental quality or have less detrimental effects. Examples of such alternatives include: the alternative of not taking action or of postponing action pending further study; alternatives requiring actions of a significantly different nature which would provide similar benefits with different environmental impacts, e.g., low capital intensive improvements, mass transit alternatives to highway construction; alternatives related to different locations or designs or details of the proposed action which would present different environmental impacts. In each case, the analysis should be sufficiently detailed to reveal comparative evaluation of the environmental benefits, costs, and risks of the proposed action and each reasonable alternative. Where an existing impact statement already contains such an analysis its treatment of alternatives may be incorporated, provided such treatment is current and relevant to the precise purpose of the proposed action.

e. Any probable adverse environmental effects which cannot be avoided (such as water or air pollution, noise, undesirable land use

patterns, or impacts on public parks and recreation areas, wildlife and waterfowl refuges, or on historic sites, damage to life systems, traffic congestion, threats to health, or other consequences adverse to the environmental goals set out in section 101(b) of NEPA). This should be a brief section summarizing in one place those effects discussed in paragraph 3c that are adverse and unavoidable under the proposed action. Included for purposes of contrast should be a clear statement of how all adverse effects will be mitigated. Where mitigating steps are included in the statement, the responsible official shall see that they are carried out.

f. The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity. This section should contain a brief discussion of the extent to which the proposed action involves tradeoffs between short-term environmental gains at the expense of long-term losses, or vice versa, and a discussion of the extent to which the proposed action forecloses future options.

g. Any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented. This requires identification of unavoidable impacts and the extent to which the action irreversibly curtails the range of potential uses of the environment. "Resources" means not only the labor and materials devoted to an action but also the natural and cultural resources lost or destroyed.

h. An indication of what other interests and considerations of Federal policy are thought to offset the adverse environmental effects of the proposed action identified pursuant to subparagraphs (c) and (e) of this paragraph. The statement should also indicate the extent to which these stated countervailing benefits could be realized by following reasonable alternatives to the proposed action (as identified in subparagraph (d) of this paragraph) that would avoid some or all of the adverse environmental effects. In this connection if a cost-benefit analysis of the proposed action has been prepared, it, or a summary, should be attached

to the environmental impact statement, and should clearly indicate the extent to which environmental costs have not been reflected in such analysis.

i. A discussion of problems and objections raised by other Federal agencies, State and local entities, and citizens in the review process, and the disposition of the issues involved and the reasons therefor. (This section shall be added to the final environmental statement at the end of the review process.)

(1) The draft and final statements should document issues raised through consultations with Federal, State, and local agencies with jurisdiction or special expertise and with citizens, of actions taken in response to comments, public hearings, and other citizens involvement proceedings.

(2) Any unresolved environmental issues and efforts to resolve them, through further consultations or otherwise, should be identified in the final statement. For instance, where an agency comments that the statement has inadequate analysis or that the agency has reservations concerning the impacts, or believes that the impacts are too adverse for approval, either the issue should be resolved or the final statement should reflect efforts to resolve the issue and set forth any action that will result.

(3) The statement should reflect that every effort was made to discover and discuss all major points of view on the environmental effects of the proposed action and alternatives in the draft statement. However, where opposing professional views and responsible opinion have been overlooked in the draft statement and are raised through the commenting process, the environmental effects of the action should be reviewed in light of those views. A meaningful reference should be made in the final statement to the existence of any responsible opposing view not adequately discussed in the draft statement indicating responses to the issues raised.

(4) All substantive comments received on the draft (or summaries of responses from the public which have been exceptionally

voluminous) should be attached to the final statement, whether or not such comment is thought to merit individual discussion in the text of the statement.

j. Draft statements should indicate at appropriate points in the text any underlying studies, reports, and other information obtained and considered in preparing the statement, including any cost-benefit analyses prepared. In the case of documents not likely to be easily accessible (such as internal studies or reports), the statement should indicate how such information may be obtained. If such information is attached to the statement, care should be taken to insure that the statement remains an essentially self-contained instrument, capable of being understood by the reader without the need for undue cross reference.

4. Publicly owned parklands, recreational areas, wildlife and waterfowl refuges and historic sites. The following points are to be covered:

a. Description of "any publicly owned land from a public park, recreational area of wildlife and waterfowl refuge" or "any land from an historic site" affected or taken by the project. This includes its size, available activities, use, patronage, unique or irreplaceable qualities, relationship to other similarly used lands in the vicinity of the project, maps, plans, slides, photographs, and drawings showing a sufficient scale and detail the project. This also includes its impact on park, recreation, wildlife, or historic areas, and changes in vehicular or pedestrian access.

b. Statement of the "national, State or local significance" of the entire park, recreational area, refuge, or historic site "as determined by the Federal, State or local officials having jurisdiction thereof."

(1) In the absence of such a statement lands will be presumed to be significant. Any statement of "insignificance" by the official having jurisdiction is subject to review by the Department as to whether such statement is capricious.

(2) Where Federal lands are administered for multiple uses, the Federal official having jurisdiction over the lands shall determine whether the subject lands are in fact being

used for park, recreation, wildlife, waterfowl, or historic purposes.

c. Similar data, as appropriate, for alternative designs and locations, including detailed cost estimates (with figures showing percentage differences in total project costs) and technical feasibility, and appropriate analyses of the alternatives, including any unique problems present and evidence that the cost or community disruptions resulting from alternative routes reach extra-ordinary magnitudes. This portion of the statement should demonstrate compliance with the Supreme Court's statement in the Overton Park case, as follows:

[The] very existence of the statute indicates that protection of parkland was to be given paramount importance. The few green havens that are public parks were not to be lost unless there were truly unusual factors present in a particular case or the cost or community disruption resulting from alternative routes reached extraordinary magnitudes. If the statutes are to have any meaning, the Secretary cannot approve the destruction of parkland unless he finds that alternative routes present unique problems. 401 U.S. 402, 412 (1971).

d. If there is no feasible and prudent alternative, a description of all planning undertaken to minimize harm to the protected area and statement of actions taken or to be taken to implement this planning, including measures to maintain or enhance the natural beauty of the lands traversed.

(1) Measures to minimize harm may include replacement of land and facilities, providing land or facilities, provisions for functional replacement of the facility (see 49 CFR 25.267).

(2) Design measures to minimize harm; e.g., tunneling, cut and cover, cut and fill, treatment of embankments, planting, screening, maintenance of pedestrian or bicycle paths and noise mitigation measures all reflecting utilization of appropriate interdisciplinary design personnel.

e. Evidence of concurrence or description of efforts to obtain concurrence of Federal, State or local officials having jurisdiction over the

section 4(f) property regarding the action proposed and the measures planned to minimize harm.

f. If Federally-owned properties are involved in highway projects, the final statement shall include the action taken or an indication of the expected action after filing a map of the proposed use of the land or other appropriate documentation with the Secretary of the Department supervising the land (23 U.S.C. 317).

g. If land acquired with Federal grant money (Department of Housing and Urban Development open space or Bureau of Outdoor Recreation land and water conservation funds) is involved, the final statement shall include appropriate communications with the grantor agency.

h. TGC will determine application of section 4(f) to public interests in lands, such as easements, reversions, etc.

i. A specific finding by the Administrator that there is no feasible and prudent alternative and that the proposal includes all possible planning to minimize harm to the "4(f) area" involved.

5. Properties and sites of historic and cultural significance. The statement should document actions taken to preserve and enhance districts, sites, buildings, structures, and objects of historical, architectural, archeological, or cultural significance affected by the action.

a. Draft environmental statements should include identification, through consulting the National Register and applying the National Register Criteria (36 CFR Part 800), of properties that are included in or eligible for inclusion in the National Register of Historic Places that may be affected by the project. The National Register is published in its entirety each February in the Federal Register. Monthly additions and listings of eligible properties are published in the Federal Register the first Tuesday of each month. The Secretary of the Interior will advise, upon request, whether properties are eligible for the National Register.

b. If application of the Advisory Council on Historic Preservation's (ACHP) Criteria of Effect (36 CFR Part 800) indicates that the project will have an effect upon a property included in or eligible for inclusion in the National Register of Historic Places, the draft environmental statement should document the effect. Evaluation of the effect should be made in consultation with the State Historic Preservation Officer (SHPO) and in accordance with the ACHP's criteria of Adverse Effect (36 CFR Part 800).

c. Determinations of no adverse effect should be documented in the draft statement with evidence of the application of the ACHP's Criteria of Adverse Effect, the views of the appropriate State Historic Preservation Officer, and submission of the determination to the ACHP for review.

d. If the project will have an adverse effect upon a property included in or eligible for inclusion in the National Register of Historic Places, the final environmental statement should include either an executed Memorandum of Agreement or comments from the Council after consideration of the project at a meeting of the ACHP and an account of actions to be taken in response to the comments of the ACHP. Procedures for obtaining a Memorandum of Agreement and the comments of the Council are found in 36 CFR Part 800.

e. To determine whether the project will have an effect on properties of State or local historical, architectural, archaeological, or cultural significance not included in or eligible for inclusion in the National Register, the responsible official should consult with the State Historic Preservation Officer, with the local official having jurisdiction of the property, and where appropriate, with historical societies, museums, or academic institutions having expertise with regard to the property. Use of land from historic properties of Federal, State and local significance as determined by the official having jurisdiction thereof involves section 4(f) of the DOT Act and documentation should include information necessary to consider a 4(f) determination (see paragraph 4).

The Department has no basis at this time to project the existence of any other motor vehicle standards at a specific level. If these projections are proven erroneous by future events, and if the impact of those future standards would substantially reduce the safety margin provided in this notice, it may be necessary to reconsider the standards promulgated herein.

D. The need of the Nation to conserve energy.

As discussed in section II.B of this notice, this final consideration in establishing maximum feasible average fuel economy levels requires the establishment of fuel economy standards at the highest level consistent with the other statutory considerations.

When the four statutory considerations are considered together, the fuel economy levels achievable by the four domestic manufacturers, as derived from the above analyses, are as set forth in Table 2 below. These numbers are based on a 0 percent emissions penalty. For the reasons discussed in section III.E below, including consideration of the emissions standards, an adjustment is made in that section to Table 2.

TABLE 2

<i>Manufacturer</i>	<i>1981</i>	<i>1982</i>	<i>1983</i>	<i>1984</i>
American Motors	22.2	22.6	23.1	24.7
Chrysler	23.8	25.1	26.3	28.1
Ford	23.4	24.5	26.1	27.0
General Motors	23.3	24.2	26.5	28.8

E. Establishing the maximum feasible average fuel economy level.

In determining maximum feasible average fuel economy, the Department cannot simply select the level achievable by the least capable manufacturer in each model year. Instead, an analysis along the lines of that set forth in pages 154-5 of the Conference Report must be carried out. That Report states:

Such determination should therefore take industry-wide considerations into account. For example, a determination of maximum feasible average fuel economy should not be keyed to the single manufacturer which might have the most difficulty achieving a given level of average fuel economy. Rather, the Secretary must

weigh the benefits to the nation of a higher average fuel economy standard against the difficulties of individual automobile manufacturers. Such difficulties, however, should be given appropriate weight in setting the standard in light of the small number of domestic automobile manufacturers that currently exist, and the possible implications for the national economy and for reduced competition associated with a severe strain on any manufacturer. However, it should also be noted that provision has been made for granting relief from penalties under Section 508(b) in situations where competition will suffer significantly if penalties are imposed.

It is clear from this admonition that in certain circumstances the standards must not be set at levels which every manufacturer will be able to achieve in every year. Rather, they should be set at some point above those levels. Whether and how far standards should be set above those levels depends on a balancing of the burdens placed on the manufacturers with lower achievable average fuel economy on one hand against the benefits of a higher standard on the other. This in turn requires an analysis of the impacts of civil penalties imposed on the manufacturers at a given standard level. Implicit in this analysis is consideration of the ability of a manufacturer to apply civil penalty "credits" from other years to reduce or eliminate a penalty and of the ability of the Department to compromise penalties where insolvency, bankruptcy, or substantial lessening of competition may occur. See section 508 of the Act. The latter possibility is especially significant in the case of American Motors, which has reported no taxable income over the past ten years and has suffered serious declines in its sales in the past year, DN-14, p. 6 and Attachments, and whose projected maximum achievable fuel economy is substantially less than its domestic competitors. See Table 2.

When this clarifying language in the Conference Report is applied to the projected maximum feasible fuel economy values for each manufacturer as set forth in Table 2, it becomes clear that in establishing these standards the "least capable" manufacturer should not be the limiting constraint in determining maximum feasible average fuel economy. From that table, it appears that

the projected maximum feasible level for AMC in the years 1981-84 ranges from approximately one to three miles per gallon less than that of the least capable of the "Big Three" in each of those years. In terms of the nation's petroleum import bill, the cost to consumers of setting the fuel economy standards at the level attainable by AMC as opposed to basing it on that attainable by the "Big Three" could be nearly half a billion dollars in 1983 alone. Against the benefit of avoiding that substantial cost through establishing higher standards, the Department must balance the potential civil penalty liability which AMC could be subject to, which could be up to \$145 per automobile sold in 1983. Further, the Department must consider AMC's present small market share of under 3 percent of the domestic market and its resulting relatively small impact on industry employment, and the possibility discussed in the previous paragraph that any civil penalty liability might be mitigated by the Department. In view of these considerations, the Department must not base its determination of maximum feasible average fuel economy on the single domestic manufacturer with the lowest projected fuel economy capability.

While the Department believes that the previous paragraph correctly applies the statutory criteria, it may paint a misleading picture of AMC's ability to meet fuel economy standards. First, as previously discussed, the projected fuel economy values in Table 2 are based on a limited class of available fuel economy improvement methods. AMC could adopt additional measures to improve fuel economy. Second, a number of further measures are available to relatively small manufacturers such as AMC to achieve major improvements in average fuel economy in a short time period. Among these are the discontinuance of sale of poor fuel economy model types and the purchase of high efficiency engines and other technology from outside sources. Both of these options require minimal capital investment and are readily implementable. The Department has no information on AMC's precise product plans over the next several years, but it appears that some significant initiatives is planned which would result in major fuel economy improvements for that company's automotive fleet. Recently, AMC's president predicted that their

corporate fuel economy average would achieve 27.5 mpg by the *early 1980's*. "Ward's Auto World," June 1977, p. 30, Docket Number FE-76-01-GR-16. AMC officers also testified that they expect the average fuel economy of their passenger automobiles to remain competitive with that of the other domestic manufacturers, and not fall significantly below that level, as the Table 2 numbers might indicate. Tr-II, p. 220. Thus, it appears that AMC's future average fuel economy levels may be significantly understated in the DOT analysis, and the resulting civil penalty impact correspondingly overstated.

The Conference Report clarification of the "maximum feasible" requirement also has implications for the "Big Three" manufacturers. Although the fuel economy improvement potentials of those three companies were found to be relatively close numerically, some significant fuel savings benefit could be achieved by setting the fuel economy standard at a level higher than that found to be achievable for the least capable of the three. The harm suffered by those companies as a result of a higher standard is measured by the magnitude of the civil penalties generated. If the calculation of manufacturer-specific fuel economy improvements in Table 2 is correct, and if each manufacturer improved its average fuel economy up to those levels in each year, no net civil penalty liability would result for the "Big Three" if the maximum feasible average fuel economy levels were established as follows: 23.3 mpg for 1981, 24.6 mpg for 1982, 26.1 mpg for 1983, and 27.4 mpg for 1984. At those levels, any civil penalty liability for those companies in one of the affected years would be offset by credits obtained for overachievement in prior or subsequent years. The only obvious adverse impact from adopting this approach would be possible bad publicity resulting from the failure to meet standards. In view of the fact that the Act's sanctions are monetary civil penalties, which can be offset from year to year, no major stigma would attach to single year noncompliance. In fact, the Act's unique enforcement scheme appears to be designed to create economic incentives for encouraging compliance rather than harsh sanctions for noncompliance. Therefore, the Department has concluded that any harm to the individual manufacturers from single year non-

petroleum consumption could result in a cumulative national savings of approximately 25 billion dollars by the year 1995, at an assumed petroleum price of \$13.50 per barrel. See RSP Table 6.7.

VIII. Economic impact of the standards.

The economic impact of these standards was independently evaluated in accordance with Internal Regulatory Procedures by the NHTSA Office of Planning and Evaluation. This assessment utilizes the assumptions set forth in the RSP and expands upon the analyses in that document. That is, the RSP shows cumulative impacts from 1977 for all fuel economy improvements while the Economic Impact Assessment reflects changes from MY 1980 vehicles due solely to improvements necessary to meet the rule.

To summarize the Economic Impact Assessment, the total change for the Domestic Auto Industry for model years 1981-84 (from a base of MY 1980 and 20 mpg) due to the rule are estimated as follows:

Gasoline consumption for the average vehicle manufactured in MY's 1981-84 will be reduced by approximately 1100 gallons for a total lifetime savings of 1.2 billion barrels; consumer lifetime gasoline costs (at 65 cents per gallon) will be reduced by \$640 per car, retail prices will increase by about 3 percent or \$175 per car; total consumer costs (that is, retail prices, maintenance costs, and gasoline costs) are anticipated to decrease by about \$450 per car or \$20 billion nationally. The domestic industry extraordinary capital requirements are anticipated to increase by \$3 billion, new car sales may decrease by about .4 percent or a total of 155,000 vehicles, and total industry employment is estimated to rise by 77,000 jobs due to extraordinary capital expenditures. Most of these impacts can be considered insignificant with the exception of the reduction in gasoline consumption and possibly the increase in industry capital requirements, should sales decline for several years due to unforeseen events.

Sensitivity analyses performed on several of the variables used in the analysis show little change in results. Thus, these results are good approximations of the impacts to be expected from the rule.

It is recognized that the economic projections made in the Department's various economic analyses are subject to possible changes in the national economy and in the structure of the industry, which no one is presently able to predict with perfect accuracy.

IX. Environmental Impact.

A detailed analysis of the environmental impacts associated with various alternative fuel economy standard schedules for the 1981-84 period was conducted, consistent with the requirements of the National Environmental Policy Act, 42 U.S.C. 4321, *et seq.* The analysis concluded that the national goals of a better environment and of energy conservation are generally compatible, in that measures which tend to conserve energy also tend to be beneficial to the environment. The most obvious environmental benefits associated with these standards are the conservation of scarce resources such as petroleum and the various metals which presently go into the automobiles, and the reduction of pollution associated with the extraction and processing of those materials. Most areas of possible adverse environmental impacts, such as the pollution associated with the increased use of lightweight materials, are offset by reductions in pollution associated with the items replaced. The most significant possible exception to this is the still unresolved issue of the generation and potential for control of presently unregulated pollutants from diesel and other alternative engines. The Department has not based its standards on the use of alternative engines at this time primarily for that reason. However, the issue of the environmental impacts associated with the various alternative engines is of major importance, and the EPA is pursuing the matter now.

X. Safety impact.

The NPRM raised a question regarding the impact of occupant safety of downsizing passenger automobiles as a result of the fuel economy standards. Depending upon the assumptions made, reasonable conclusions can be made that there will be little net safety impact or, alternatively, that there will be a significant adverse safety impact.

A major reason for suggesting that downsizing might have a significant adverse safety impact is the physical law of conservation of momentum, which indicates that when objects of different mass collide, the smaller object will experience a greater change in velocity than the larger one. DN-18, Att. VII, p. 4 (GM). There, in a collision between a small automobile and a large one, the occupants of the smaller one may collide with the vehicle interior with a greater velocity than would be the case for the occupants of the larger automobile, assuming that seat belts were not used. A further advantage which large automobiles may have is that their additional size may provide for additional energy-absorbing crush space outside the occupant compartment, which may allow the energy of a crash to be dissipated in a manner less injurious to the occupants.

On the other hand, accident information appears to indicate that the change of injury in single car crashes is not appreciably greater in a small car than in a large car. The reduction in vehicle weight and size will apparently be offset to a substantial degree by the reduction in the range of passenger automobile weights which is projected to occur as the larger automobiles are downsized. Further, smaller automobiles may have certain advantages in terms of accident avoidance which tend to offset their possible disadvantages. One such advantage is related to the "target-projectile" effect. See Docket No. FE-76-01-GR-7, pp. 40-2 (Mr. Stanley Hart). This effect results from the fact that the larger an automobile is in relationship to a road lane, the more likely it is to hit or be hit by anything else within that lane, and the more likely it is to veer outside its assigned lane because of the reduced margin for error. A corollary to this is the increased ability of a small automobile to maneuver within its lane to avoid other automobiles. Docket No. FE-76-01-GR-8, p. 9 (Prof. P. L. Yu, *et al.*). Furthermore, although the shielding effect of vehicular weight may be an indicator of an automobile's protective ability, that same weight also serves as a weapon with respect to other automobiles and pedestrians. Thus, additional weight in vehicles may be a benefit to the occupant of that particular vehicle but a detriment to other drivers and pedestrians.

Available technology provides the means to argue that the downsized automobile fleet of the 1980's will be as safe, or safer, than the fleet of today. The Department has statutory responsibility under the National Traffic and Motor Vehicle Safety Act to issue motor vehicle safety standards that meet the need for motor vehicle safety. The estimates of fuel economy penalties due to Federal motor vehicle safety standards presume the existence of standards that will yield safety improvements which more than offset any net safety impacts due to reduced vehicle size or weight (see RSP).

The above conclusions should not be construed to mean that passenger automobiles are or will be as safe as possible. Among the actions that could be taken to improve the safety characteristics of future automobiles are techniques described in Volvo's response to the May 10, 1977, special order, such as the use of energy-absorbing structural designs. DN-28-02, p. 11 and Attachment. These techniques could be implemented concurrently with the vehicle redesign which occurs as part of the downsizing process. When representatives of the two largest domestic manufacturers were asked at the fuel economy hearing whether their companies planned to incorporate such techniques as part of the redesign process, they responded that they would do whatever was necessary to comply with applicable safety standards, but presumably no more. Tr-II, p. 86 (Ford) and 187 (GM). The Department encourages the various automakers to consider techniques such as those described by Volvo when present passenger automobiles are redesigned.

XI. 1981-1984 Passenger Automobiles.

The passenger automobiles produced during the 1981-84 period will differ significantly from those presently produced. These differences will result not only from the requirements of the Motor Vehicle Information and Cost Savings Act, but also from requirements in the areas of safety and emission control and from market and other forces. It is therefore appropriate to discuss in general terms the implications of all these requirements for the driving public, with particular emphasis on the energy-related changes.

The final reason suggested by the commenters for denying Excalibur's petition for exemption was that the agency should exercise its discretion to deny the petition on the grounds that it is contrary to the general goal of energy conservation and that an exemption would erode public support for the fuel economy program. This agency believes that the language in section 502(c) specifying that the agency may exempt low volume manufacturers indicates that Congress intended this agency to apply a test of whether granting an exemption would be generally consistent with the purposes of the Act. The main purpose of the Act is conserving energy. Establishing standards above the maximum feasible average fuel economy for Excalibur would not conserve any energy, since the alternative standard is based on the premise that it is not possible for Excalibur to achieve better fuel economy than its maximum feasible level.

As to the comments stating that an exemption for Excalibur would endanger public support for the program, this agency does not agree that requiring very small manufacturers like Excalibur to comply with standards set at their maximum feasible level instead of the maximum feasible level for larger manufacturers will necessarily erode public support for the program. Instead, the agency believes that the process of exempting

the very small manufacturers will be viewed as equitably adjusting the generally applicable fuel economy standards to the lesser capabilities of these manufacturers.

For these reasons the agency has determined that the maximum feasible average fuel economy for Excalibur in the 1978 model year is 11.5 mpg. Therefore, this agency is exempting Excalibur from the generally applicable standard of 18.0 mpg for the 1978 model year and is establishing an alternative standard for Excalibur at 11.5 mpg for the 1978 model year.

Accordingly, 49 CFR Part 531 is amended. . . .

AUTHORITY: Sec. 9, Pub. 89-670, 80 Stat. 931 (49 U.S.C. 1657); sec. 301, Pub. 94-163, 89 Stat. 901 (15 U.S.C. 2002); delegation of authority at 41 FR 25015, June 22, 1976.

The program official and attorney principally responsible for the development of this decision are Douglas Pritchard and Stephen Kratzke, respectively.

Issued on January 11, 1979.

Joan Claybrook
Administrator

44 F.R. 3708-3709
January 18, 1979

PREAMBLE TO AMENDMENT TO PART 531—AVERAGE FUEL ECONOMY STANDARDS FOR PASSENGER AUTOMOBILES

(Docket No. LVM 77-02; Notice 3)

Action: Final decision to grant exemption from average fuel economy standards.

Summary: This notice exempting Rolls-Royce Motors Inc. (Rolls-Royce) from the generally applicable average fuel economy standard of 18.0 miles per gallon (mpg) for 1978 model year passenger automobiles and establishing an alternative standard is issued in response to a petition by Rolls-Royce. The alternative standard is 10.7 mpg.

Date: The exemption and alternative standard apply in the 1978 model year.

For further information contact:

Douglas Pritchard, Office of Automotive Fuel Economy Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-755-9384).

Supplementary information:

The National Highway Traffic Safety Administration (NHTSA) is exempting Rolls-Royce from the generally applicable passenger automobile average fuel economy standard for the 1978 model year and establishing an alternative standard.

This exemption is issued under the authority of section 502(c) of Title V of the Act. Section 502(c) provides that a manufacturer of passenger automobiles that manufactures fewer than 10,000 vehicles annually may be exempted from the generally applicable average fuel economy standard if that generally applicable standard is greater than the low volume manufacturer's maximum feasible average fuel economy and if the NHTSA establishes an alternative standard applicable to that manufacturer at the manufacturer's maximum feasible average fuel economy. In determining the manufacturer's maximum feasible

average fuel economy, section 502(e) of the Act requires the NHTSA to consider:

- (1) Technological feasibility;
- (2) Economic practicability;
- (3) The effect of other Federal motor vehicle standards on fuel economy; and
- (4) The need of the Nation to conserve energy.

This final rule was preceded by a notice announcing the receipt of a petition for exemption from the 1978 standard (42 FR 64171; December 22, 1977) and a proposed decision to grant an exemption to Rolls-Royce for the 1978 model year (43 FR 30081; July 13, 1978). Only one comment on the notice of receipt was submitted. That commenter urged that Rolls-Royce be exempted "in the name of common sense".

Eleven comments were received in response to the proposed decision, all of which opposed the proposed exemption. These comments raised three main points: Congress never intended that Rolls-Royce receive an exemption; the agency had incorrectly determined the maximum feasible average fuel economy for Rolls-Royce; and even if Rolls-Royce were eligible and had a maximum feasible average fuel economy of less than the generally applicable standard of 18.0 miles per gallon (mpg), NHTSA should use its discretion to deny the Rolls-Royce petition.

With respect to the first point, several commenters stated that it was unfair for some manufacturers to be forced to comply with a standard of 18 mpg, while others were exempted from that requirement. Congress determined, however, through section 502(c) of the Act, to authorize this agency to exempt low volume manufacturers from the generally applicable standard and establish a standard for those manufacturers at the level of their maximum feasible average fuel

economy. Congress took this action in recognition of a variety of factors, including the limited engineering staff and financial resources of these manufacturers. Low volume manufacturers can be exempted from the generally applicable standards only if they cannot comply with those standards, and if alternative standards are set.

Other commenters said that the agency should require fuel economy improvements by all manufacturers, not permit certain manufacturers to ignore the generally applicable fuel economy standards. The agency is requiring all exempted manufacturers to comply with an alternative standard set at their maximum feasible average fuel economy. A requirement that these manufacturers achieve some higher fuel economy level would not save any additional fuel, since the alternative standard is based on the premise that it is not possible for a manufacturer to achieve a higher fuel economy level. Hence, exempting low volume manufacturers from the generally applicable standards and establishing an alternative standard at their maximum feasible level does not result in any additional use of fuel.

In this vein, one other commenter suggested that Congress had intended that the low volume exemptions only be available to manufacturers of moderately priced cars, and not to manufacturers of very expensive cars. In this commenter's view, the manufacturer of very expensive cars can pass on any civil penalties to its customers in the form of a price increase. Given the price of these cars, this commenter concluded that the increase would not cause any noticeable decrease in sales, while an exemption would only serve to keep prices down for the purchasers of these expensive vehicles.

No legislative history supporting this contention regarding Congressional intent is cited by the commenter or known to this agency. Congress did give the agency discretionary authority to grant or deny petitions. However, Congress did not direct the agency to use that discretion to deny exemption petitions by manufacturers of high-priced automobiles or to use it in any other particular manner.

Other comments suggested that it was unfair to grant exemptions only to foreign companies, while requiring all domestic companies to comply

with the generally applicable standard. Both domestic and foreign low volume manufacturers are eligible for exemptions. Indeed, the first two low volume manufacturers to receive exemptions were domestic manufacturers, Avanti and Checker.

The second major objection raised by the commenters concerned this agency's determination of the maximum feasible average fuel economy for Rolls-Royce. No commenters suggested that the consideration of technological feasibility or the effect of other Federal motor vehicle standards on fuel economy had been in error. In this connection, it should be emphasized that the time for improving the fuel economy of 1978 Rolls-Royces has passed. However, several commenters stated that this agency had not properly considered the economic practicability or the need of the Nation to conserve energy.

One commenter argued that this agency had not considered the ability of Rolls-Royce to pay the civil penalty which would be assessed if Rolls-Royce failed to comply with the higher generally applicable standard. The agency agrees that it has confined itself under Section 502(c) to an analysis of the financial capabilities of the petitioner to improve fuel economy by using smaller engines, lighter components, and the like, and does not consider the ability to absorb any potential civil penalties.

The reason for so limiting the analysis of economic practicability in setting alternative standards for individual manufacturers is that the agency believes that Congress intended the maximum feasible concept to result in an alternative set at the highest average fuel economy level a manufacturer could reasonably be expected to achieve in a given model year. If the ability to pay any civil penalty is considered as a part of economic practicability for an individual manufacturer, the resulting standard would be higher than the highest fuel economy level the manufacturer could achieve in that model year, and thus would impose an unavoidable civil penalty. This would not conserve any additional fuel since it would not cause that manufacturer to achieve higher fuel economy and would not apply to other manufacturers whose fuel economy could exceed the fuel economy of that manufacturer. Accordingly, the agency does not believe that

PREAMBLE TO AN AMENDMENT TO PART 531—AVERAGE FUEL ECONOMY STANDARDS FOR PASSENGER AUTOMOBILES

(Docket No. LVM 82-01; Notice 2)

ACTION: Final Rule.

SUMMARY: This notice grants petitions by Aston Martin Lagonda, Ltd. (Aston Martin), Avanti Motor Corporation (Avanti), Checker Motor Corporation (Checker), Excalibur Automobile Corporation (Excalibur), and Rolls-Royce Motors, Ltd. (Rolls-Royce), requesting that they be exempted from the generally applicable average fuel economy standards for 1981-1985 passenger automobiles, and that lower alternative standards be established for those companies. This notice, which was preceded by a proposal requesting public comments, establishes those exemptions and alternative standards under the authority of the Motor Vehicle Information and Cost Saving Act. The alternative standards are the same as those proposed except in the case of Checker. Checker has stopped production of all its passenger automobiles. Accordingly, its petition for the 1983-85 model years is treated as moot.

DATE: These exemptions are effective for model years 1981-1985.

SUPPLEMENTARY INFORMATION: The NHTSA is exempting Aston Martin, Avanti, Excalibur, and Rolls-Royce from the generally applicable average fuel economy standards for passenger automobiles manufactured in the 1981-1985 model years and establishing alternative standards applicable to those companies in those model years. Checker is granted exemptions and subject to alternative standards for the 1981 and 1982 model years.

These exemptions are issued under the authority of section 502(c) of the Motor Vehicle Information and Cost Savings Act, as amended ("the Act") (15 U.S.C. 2002(c)). Section 502(c) provides that a manufacturer of passenger automobiles which manufacture fewer than 10,000 vehicles annually

may be exempted from the generally applicable average fuel economy standard for a particular model year if that standard is greater than the low volume manufacturer's maximum feasible average fuel economy and if the NHTSA establishes an alternative standard applicable to that manufacturer at the maximum feasible average fuel economy. In determining the manufacturer's maximum feasible average fuel economy, section 502(e) of the Act (15 U.S.C. 2002(e)) requires the NHTSA to consider:

- (1) Technological feasibility;
- (2) Economic practicability;
- (3) The effect of other Federal motor vehicle standards on fuel economy; and
- (4) The need of the Nation to conserve energy.

This final rule was preceded by a notice announcing the NHTSA's proposed decision to grant an exemption to all five of these companies for all five model years (47 FR 20639; May 13, 1982). NHTSA received only one comment during the 45-day comment period. The comment was from Checker.

Checker stated that its financial condition would not permit it to carry out its plans to improve fuel economy for its 1983-1985 model year vehicles, and requested lower alternative standards for each of those model years. On July 9, 1982, Checker ended production of its passenger automobiles with no plans to resume that production. Accordingly, NHTSA is dismissing Checker's petition for exemption during the 1983-1985 model years as moot. Exemptions and alternative standards are established for the 1981 and 1982 model years, the years in which Checker was producing automobiles. No other comments were received.

Based on its conclusions that the maximum feasible average fuel economy levels for each of the petitions during the 1981-1985 model years would be as shown below, that other Federal motor

vehicle standards would not affect achievable fuel economy beyond the extent considered in this analysis, and that the national effort to conserve energy will not be affected by the granting of these requested exemptions, NHTSA hereby exempts the five petitioners from the generally applicable average fuel economy standards and establishes alternative standards for the petitioners at the levels shown below.

Part 531—[Amended]

In consideration of the foregoing, 49 CFR Part 531 is amended by revising § 531.5 to read as follows:

§ 531.5 Fuel economy standards.

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

(1) Avanti Motor Corporation.

Average Fuel Economy Standard

Model year	Miles per gallon
1978	16.1
1979	14.5
1980	15.8
1981	18.2
1982	18.2
1983	16.9
1984	16.9
1985	16.9

(2) Rolls-Royce Motors, Inc.

Average Fuel Economy Standard

Model year	Miles per gallon
1978	10.7
1979	10.8
1980	11.1
1981	10.7
1982	10.6
1983	9.9
1984	10.0
1985	10.0

(3) Checker Motors Corporation.

Average Fuel Economy Standard

Model year	Miles per gallon
1978	17.6
1979	16.5
1980	18.5
1981	18.3
1982	18.4

(4) Aston Martin Lagonda, Inc.

Average Fuel Economy Standard

Model year	Miles per gallon
1979	11.5
1980	12.1
1981	12.2
1982	12.2
1983	11.3
1984	11.3
1985	11.4

(5) Excalibur Automobile Corporation.

Average Fuel Economy Standard

Model year	Miles per gallon
1978	11.5
1979	11.5
1980	16.2
1981	17.9
1982	17.9
1983	16.6
1984	16.6
1985	16.6

Issued on December 3, 1982.

Raymond A. Peck, Jr.,
Administrator.

47 F.R. 55684
December 13, 1982

PART 531—AVERAGE FUEL ECONOMY STANDARDS FOR PASSENGER AUTOMOBILES

Sec.

531.1 Scope.

531.2 Purpose.

531.3 Applicability.

531.4 Definitions.

531.5 Fuel economy standards.

531.6 Measurement and calculation procedures.

S531.1 Scope.

This part establishes average fuel economy standards pursuant to section 502(a) of the Motor Vehicle Information and Cost Savings Act, as amended, for passenger automobiles.

S531.2 Purpose.

The purpose of this part is to increase the fuel economy of passenger automobiles by establishing minimum levels of average fuel economy for those vehicles.

S531.3 Applicability.

This part applies to manufacturers of passenger automobiles.

S531.4 Definitions.

(a) *Statutory terms.* (1) The terms "average fuel economy," "manufacture," "manufacturer," and "model year" are used as defined in section 501 of the Act.

(2) The terms "automobile" and "passenger automobile" are used as defined in section 501 of the Act and in accordance with the determination in part 523 of this chapter.

(b) *Other terms.* As used in this part, unless otherwise required by the context—

(1) "Act" means the Motor Vehicle Information and Cost Savings Act, as amended by Pub. L. 94-163.

S531.5 Fuel economy standards.

(a) Except as provided in paragraph (b) of this section each manufacturer of passenger auto-

mobiles shall comply with the following standards in the model years specified:

<i>Model Year</i>	<i>Average fuel economy standard (miles per gallon)</i>
1978	18.0
1979	19.0
1980	20.0
1981	22.0
1982	24.0
1983	26.0
1984	27.0
1985 and thereafter	27.5

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

[(1) Avanti Motor Corporation.

Average Fuel Economy Standard

<i>Model year</i>	<i>Miles per gallon</i>
1978	16.1
1979	14.5
1980	15.8
1981	18.2
1982	18.2
1983	16.9
1984	16.9
1985	16.9

(2) Rolls-Royce Motors, Inc.

Average Fuel Economy Standard

<i>Model year</i>	<i>Miles per gallon</i>
1978	10.7
1979	10.8
1980	11.1
1981	10.7
1982	10.6
1983	9.9
1984	10.0
1985	10.0

(3) Checker Motors Corporation.

Average Fuel Economy Standard

Model year	Miles per gallon
1978	17.6
1979	16.5
1980	18.5
1981	18.3
1982	18.4

(4) Aston Martin Lagonda, Inc.

Average Fuel Economy Standard

Model year	Miles per gallon
1979	11.5
1980	12.1
1981	12.2
1982	12.2
1983	11.3
1984	11.3
1985	11.4

(5) Excalibur Automobile Corporation.

Average Fuel Economy Standard

Model year	Miles per gallon
1978	11.5
1979	11.5
1980	16.2
1981	17.9
1982	17.9
1983	16.6
1984	16.6
1985	16.6

(6) Reserved

(7) Officine Alfieri Maserati, S.p.A.

Average Fuel Economy Standard

Model year	Miles per gallon
1978	12.5
1979	12.5
1980	09.5

(47 F.R. 55685—December 13, 1982. Effective: For model years 1981–1985)]

S531.6 Measurement and calculation procedures.

(a) The average fuel economy of all passenger automobiles that are manufactured by a manufacturer in a model year shall be determined in accordance with procedures established by the Administrator of the Environmental Protection Agency under section 502(a) (1) of the Act and set forth in 40 CFR Part 600.

**42 F.R. 33534
June 30, 1977**

PREAMBLE TO PART 533—AVERAGE FUEL ECONOMY STANDARD FOR NON-PASSENGER AUTOMOBILES

(Docket No. FE 76-3; Notice 3)

This notice establishes average fuel economy standards for nonpassenger automobiles which are rated at 6,000 pounds gross vehicle weight or less and are manufactured in model year 1979. Vehicles affected by these standards include pickup trucks, vans, and four-wheel drive, jeep-type vehicles which are rated within that weight range. The standard for four-wheel drive nonpassenger automobiles which are jeep-type vehicles is 15.8 mpg. The standard for all other nonpassenger automobiles is 17.2 mpg. The purpose of these standards is to conserve gasoline by improving the fuel economy of the Nation's fleet of nonpassenger automobiles. The agency estimates that 102,500,000 gallons of gasoline will be saved annually by the 1979 nonpassenger automobile fleet, over 1976 levels. The decreasing world petroleum supply and the uncertain availability to this Nation of existing foreign petroleum, combined with the importance of petroleum to the national economy and standard of living, have made these fuel economy standards necessary.

Dates: These standards will apply to the 1979 model year.

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Supplementary Information:

The National Highway Traffic Safety Administration (NHTSA) is establishing average fuel economy standards for nonpassenger automobiles manufactured in model year 1979. These standards will appear in a new Part 533, added to

NHTSA regulations by this action. The average fuel economy standards are issued pursuant to section 502(b) of Title V of the Motor Vehicle Information and Cost Savings Act, as amended. This final rule was preceded by a questionnaire last summer and a notice of proposed rulemaking (NPRM), 41 FR 52087, November 26, 1976. The rule proposed in the NPRM placed all nonpassenger automobiles 6,000 pounds gross vehicle weight rating (GVWR) or less in a single class, and established an average fuel economy standard of 18.7 mpg for that class. The NPRM specified that this proposed standard would be reduced in light of any effects of 1979 emissions standards and testing procedures established by the EPA.

Comments to the NPRM were received by NHTSA and were carefully evaluated in the process of developing the final rule. Most of the comments were submitted by automobile manufacturers. There were no comments received from consumer groups, or other public interest organizations.

A number of issues were raised by the comments received in response to the NPRM. The resolution of several of those issues has resulted in changes to the final rule. The major issues which have been raised, and their resolution, along with specific changes to the final rule, are described in the following discussion.

Summary of changes in the rule and its rationale. The final rule, which is still limited to nonpassenger automobiles 6,000 pounds GVWR or less, provides for two classes of nonpassenger automobiles, and a separate average fuel economy standard for nonpassenger automobiles in each class. The average fuel economy standard for four-wheel drive, jeep-type vehicles is 15.8 mpg. The average fuel economy standard for all other nonpassenger automobiles is 17.2 mpg.

Comments received from the manufacturers indicated that a separate class of nonpassenger automobiles, with a separate average fuel economy standard, was appropriate for four-wheel drive jeep-type vehicles. Therefore, the agency is establishing two average fuel economy standards for nonpassenger automobiles manufactured in model year 1979, one for the jeep-type vehicles, and one for the remainder of nonpassenger automobiles. However, manufacturers of jeep-type vehicles will have the option of counting their vehicles in the special class for those vehicles, or in the general class of other nonpassenger automobiles.

As described fully in the NPRM, the proposed standard was based primarily on the domestic manufacturers' production plans for 1979. In brief, this approach was taken to avoid market shifts to heavier, less fuel economical vehicles, which could be precipitated or aggravated by requiring manufacturers to take drastic measures to improve fuel economy on short notice. Also, the agency believes that the short leadtime before model year 1979 precluded major changes from current 1979 product plans. Both final standards are based primarily on the manufacturer's product plans for 1979. The agency continues to believe that the approach taken in the NPRM is appropriate, for the reasons stated therein.

For the general class of nonpassenger automobiles that excludes four-wheel drive jeep-type vehicles, the domestic manufacturers indicated in their comments to the NPRM that an average fuel economy in the range of 18.7 mpg to 19.0 mpg was attainable for model year 1979, assuming both 1976 Federal emissions standards and testing procedures. Chrysler projected an average fuel economy of 16.5 mpg for 1979, assuming 1979 Federal testing procedures and the 1979 emissions standards; if Chrysler's estimated fuel economy reduction of 13 percent for emissions and testing procedures is taken out of the 16.5 projection, Chrysler in effect projected an average fuel economy of 19 mpg under 1976 emissions standards and testing procedures.

As described below, the agency does not believe that the manufacturers' fleets of 1979 nonpassenger automobiles will experience a fuel economy

penalty from the 1979 Federal emissions standards. However, based on its own analysis and the comments received, the agency concludes that the change in the fuel economy testing procedures in model year 1979 will result in a reduction in measured fuel economy of 8 percent. Therefore, in the final rule, the proposed standard of 18.7 mpg is lowered to 17.2 mpg.

The standard for four-wheel drive jeep-type nonpassenger automobiles, like the standard for the balance of nonpassenger automobiles, is based on the projected fuel economy of the manufacturers, on an industry or marketwide basis. American Motors Corporation (AMC), Toyota and Chrysler are the only manufacturers of vehicles in this subclassification of nonpassenger automobiles. The agency's analysis of Toyota's fuel economy potential indicates an average fuel economy for Toyota approximately 15 percent lower than AMC. Chrysler has been achieving higher fuel economy than Toyota, but not as high as AMC. Because AMC is the major manufacturer of the vehicles and is projecting the highest fuel economy, the standard was based on the fuel economy projections of AMC. AMC indicated in their comments that 17 mpg was an attainable average fuel economy for model year 1979. Based on its consideration of AMC's product plans, the agency believes that AMC can make some additional improvement in fuel economy by model year 1979. Therefore, the agency has concluded that a level of 17.2 mpg is attainable for AMC under 1976 emissions standards and fuel economy testing procedures. By applying the reduction in measured fuel economy resulting from changes in the testing procedures, the final 1979 standard for general utility, jeep-type vehicles is 15.8 mpg.

A number of comments criticized NHTSA's consideration of technology available to improve fuel economy. Notwithstanding their criticisms all manufacturers indicated that 18.7 mpg to 19.0 mpg, assuming 1976 Federal emissions and testing procedures, was achievable for model year 1979. Therefore, the agency does not believe a full discussion of the criticisms of its technological assessment is necessary at this time, but will consider those criticisms in future rulemaking.

Scope of the average fuel economy standard. International Harvester commented that, although the preamble to the NPRM indicated that only vehicles 6,000 pounds or less, GVWR, were intended to be subject to the standard, the proposed standard as drafted includes in its scope vehicles less than 10,000 pounds GVWR. International Harvester bases its comment on its interpretation of proposed Part 523, Vehicle Classification, which was published in the Federal Register on December 20, 1976 (41 FR 55371).

The agency believes that International Harvester has misinterpreted proposed Part 523. Under that proposed regulation, the only vehicles with a GVWR in excess of 6,000 pounds which would be determined to be "automobiles" within the meaning of Title V are vehicles which are manufactured primarily for use in transporting not more than 10 individuals, and which do not meet the criteria for automobiles capable of off-highway operation. If International Harvester's vehicles with a GVWR in excess of 6,000 pounds are not manufactured primarily for that use, those vehicles are not automobiles and, therefore, cannot be nonpassenger automobiles under the Vehicle Classification NPRM. If those vehicles are primarily manufactured for this use, but do not meet those criteria, the vehicles are passenger automobiles.

Off-road vehicles. AMC contends in its comment to the NPRM that its Jeep CJ vehicle is not an automobile within the meaning of section 501(1) of Title V. AMC contends that the Jeep CJ is designed, manufactured, and marketed primarily for off-highway operation. Under section 501(1), only vehicles which are "manufactured primarily for use on the public streets, roads, and highways" can be "automobiles." Since the Title authorizes the setting of average fuel economy standards only for "automobiles," AMC is in effect contending that its Jeep CJ vehicle cannot be subject to a fuel economy standard under the Title.

Although AMC in its comment to the NPRM for nonpassenger automobiles did not indicate why it believes that its Jeep CJ vehicle is manufactured primarily for off-road use, AMC did submit a fuller expression of its views on that

subject in a comment to the Vehicle Classification NPRM. In addition, the Ford Motor Company submitted a comment to the Vehicle Classification NPRM which made a similar argument to the one made by AMC, that is, that certain vehicles, because of features making them capable of off-highway operation, are not automobiles within the meaning of Title V because they are not manufactured primarily for use on the highways. AMC stated that Jeeps are manufactured primarily for off-road use because they are "built with low and medium speed capability and accommodate many off-road work-performing equipment accessories." Ford indicated that vehicles characterized by all five of the following features are not manufactured primarily for use on the highways: (1) four-wheel drive, (2) high ground clearance in terms of approach, break-over, and departure angles, and running and axle clearance, (3) engine oil systems capable of operation at inclines up to a 60 percent grade, (4) relatively high axle ratios and heavy duty axle and suspension components, and (5) relatively high frontal area.

NHTSA has concluded that there is no merit in the claims of AMC and Ford that vehicles with the characteristics set out above are not subject to fuel economy standards because their off-road characteristics place them outside the scope of Title V. The characteristics set out by the manufacturers are merely characteristics of vehicles which are capable of off-highway operation. Neither manufacturer claimed that the vehicles referred to were not intended, or expected, to spend a substantial portion of their operating lives on the public streets, roads, or highways. Therefore, NHTSA believes that Congress intended these vehicles to be automobiles within the meaning of section 501 of Title V, and subject to fuel economy standards as nonpassenger automobiles. NHTSA bases its perception of Congressional intent upon the plain language of section 501, the use of language identical to that used in other statutes where the vehicles referred to by Ford and AMC are clearly within the scope of those statutes, the legislative history of Title V, and the purpose for which the Title was enacted.

Congress clearly intended that vehicles capable of off-highway operation be subject to fuel economy standards as nonpassenger automobiles. The term "automobile capable of off-highway operation" is defined in section 501(3) of Title V. While such automobiles cannot be passenger automobiles, they can be subject to an average fuel economy standard under section 502(b) as "automobiles which are not passenger automobiles." Thus, a manufacturer must show more than an off-highway capability in order to show that a vehicle is beyond the scope of Title V.

In addition, a vehicle may be manufactured for more than one "primary" use. This interpretation of "primarily" is supported by the Supreme Court in *Board of Governors of the Federal Reserve System v. Agnew* 329 U.S. 441 (1947). In *Agnew*, the Supreme Court had to decide whether a securities firm which earned approximately two thirds of its revenue from brokerage, and less than one third from underwriting was "primarily engaged" in underwriting under the Banking Act of 1933. The Court believed that "primary" does not always mean "first," and stated, "An activity may be primary . . . if it is substantial." 329 U.S. at 426. Thus, under *Agnew*, even if a vehicle was manufactured primarily for off-highway use, if highway use was a substantial use of the vehicle, it would be manufactured primarily for highway use also, and would therefore be subject to Title V.

The phrase "manufactured primarily for use on the public streets, roads, and highways," which is found in the definition of "automobile" in section 501(1) of Title V, and which is the key to the claims of Ford and AMC, is also found in the definitions of "motor vehicle" in section 102(1) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391(1)) and section 2(15) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901(15)). "Automobile" under Title V, and "motor vehicle" under both the Vehicle Safety Act and the Cost Savings Act, do not completely overlap (for instance, "automobiles" are limited to four wheeled vehicles, while "motor vehicles" are not so limited). However, with respect to a vehicle's identity as an on-road or an off-road vehicle, the terms "motor vehicle" and "automobile" seem to refer to the same vehicles. Looking at the ex-

perience with these vehicles under the Motor Vehicle Safety Act and the Cost Savings Act, it is clear that the vehicles referred to by AMC and Ford are on-road vehicles, with a capability for off-highway operation.

After more than a decade of regulation under the Vehicle Safety Act, both Ford and AMC have acted consistently with the view that vehicles referred to here were "motor vehicles." Indeed, AMC admits that the vehicles are designed to meet the Federal safety standards applicable to motor vehicles. Moreover, the legislative history of the Cost Savings Act specifically contemplates that jeeps are subject to that Act. S.Rept. No. 92-413, 92d Cong., 1st Sess., at 20. Congress must be assumed to have been aware of this long, unchallenged regulatory practice which covered the vehicles at issue here when drafting the language found in section 501 of Title V.

NHTSA also notes that these vehicles are considered by the Environmental Protection Agency (EPA) to be subject to the emissions standards, under the Clean Air Act, which apply only to vehicles "designed for transporting persons or property on a street or highway."

There is nothing in the legislative history of Title V which indicates that the intent of Congress was that the Title have a more narrow scope than that given by the NHTSA's interpretation. In its comment to the Vehicle Classification NPRM, Ford quotes the following passage from the legislative history of Title V, in support of its claim that vehicles with all the features which Ford discussed are not manufactured primarily for on-road use:

The effect of the definitional scheme of the bill is to exclude entirely vehicles not manufactured primarily for highway use (e.g., agricultural and construction equipment, *and vehicles manufactured primarily for off-road rather than highway use*). (Emphasis supplied by Ford.)

The quoted language adds nothing to Ford's argument. Although this language gives some examples of the kinds of vehicles which Congress intended not to be subject to fuel economy standards under the Title, e.g., agricultural equipment and construction equipment, those vehicles are

not characterized by the features which are claimed by the manufacturers to establish that a vehicle was not manufactured for highway use. Furthermore, the language which Ford underscored by no means referred necessarily to the vehicles which Ford seeks to have excluded from the Title. Other vehicles, such as racing cars, fork-lifts, and airport fire apparatus are just some of the other vehicles which are not manufactured primarily for on-road use.

Indeed, if anything, the quoted language supports NHTSA's position that its interpretation of the "manufactured primarily" language is correct, since the two examples of vehicles which were given have long been considered by the NHTSA to be off-road vehicles. Therefore, Congress seems to be adopting the NHTSA interpretation. Moreover, it should be noted that the quoted material referred to the definitional scheme as it existed in HR 7014. In that earlier version of Title V, there was no specific recognition of automobiles which are capable of off-road operation. Therefore, the House report referred to a definitional scheme that less clearly included off-road vehicles than the scheme enacted into law.

Moreover, Ford did not discuss the legislative history of Title V in the Senate. The bill originally passed by the Senate dealing with automotive fuel economy standards was S.1883. Section 503(7) of S.1883 read:

"light duty truck" means any motor vehicle rated at 6,000 pounds gross vehicle weight or less which (A) is designed primarily for purpose of transportation of property including a derivative of such a vehicle, or (B) *has special features modifying such vehicle for predominant offstreet or off-highway operation and use.* (Emphasis added.)

Hence, the vehicles AMC and Ford seek to have excluded from the title were specifically included in the original Senate bill.

The text of S.1883 was incorporated verbatim into the Senate version of S.622; 41 Cong. Rec. S-16957 (daily ed., September 26, 1975). The conference report for S.622 states that "average fuel economy standards shall apply to all new 4-wheeled motor vehicles (referred to as "auto-

mobiles") manufactured or imported into the United States which are rated at 6,000 pounds gross vehicle weight (GVW) or less" S.Rep. 94-516, at 153. In light of the express provisions of the Senate bill and the broadly inclusive statement in the conference report, the agency believes that the legislative history supports the NHTSA interpretation of the scope of Title V.

Finally, the purpose of the Title dictates that its provisions, especially regarding the scope of its applicability, be given a liberal construction. Congress enacted Title V in response to the energy shortage and the pressing national need to reduce the consumption of gasoline. In light of the importance of energy conservation to the Nation's economic health and standard of living, NHTSA believes that Congress intended the Title to have broad application, and that any interpretation of the Title that would have the effect of exempting an entire class of vehicles from regulation under the Title must be firmly based in the language of the Title or its legislative history. Neither AMC nor Ford has shown a clear expression of Congressional intent that the vehicles with the characteristics they described, making them suitable for off-road operation, should be exempt from fuel economy standards established under the Title. Indeed, as has been demonstrated, the intent of Congress would have those vehicles subject to the Title.

The agency realizes that the term "primarily," as used in the definition of passenger automobile in section 501(2) ("manufactured primarily for use in the transportation of not more than 10 individuals") is given a different meaning than when it is used in section 501(1) ("manufactured primarily for use on the public streets, roads and highways"). However, the agency believes that Congress did not intend that the word be used in the same sense in those two definitional sections. As discussed above, the use of the term "primarily" in the definition of "automobile" must be considered against a legislative backdrop of other statutes using the identical phrase, and the remedial purposes of Title V justifying a broad interpretation of those definitions which delineate the scope of its applicability. However, the use of the term "primarily" in the definition of "passenger automobile" brings other

considerations into play. First, the need to give the term so broad a meaning is less compelling when the effect is not to include a vehicle in the scope of the Title, but only to place a vehicle into one of the categories clearly within the scope of the Title. Second, the definition of "passenger automobile," unlike the definition of "automobile," is not identical to existing definitions in other statutes with established interpretations. Third, since all automobiles carry at least one passenger, interpreting primarily to mean "substantial" would result in no automobile being classified as a nonpassenger automobile. Since Congress clearly intended that nonpassenger automobiles be considered apart from passenger automobiles, such an interpretation would defeat a clear Congressional intent.

Captive Imports. In the NPRM, the NHTSA indicated its tentative intent to calculate a single average fuel economy figure for domestic manufacturers which have captive imports by combining the captive imports with the domestically produced vehicles of those manufacturers. Captive imports are vehicles, such as the Chevrolet LUV and the Ford Courier pickup trucks, which are marketed by a domestic manufacturer but fabricated by a foreign manufacturer. It is anticipated that approximately 50,000 1979 LUV's and 50,000 1979 Couriers will be imported into this country. The agency noted that there were some questions about the propriety of this inclusion, including one relating to the meaning of the term "control" as used in section 503(c) of Title V and whether General Motors and Ford import these vehicles within the meaning of section 501(9) of Title V. Comments and information were requested from interested parties.

Comments were received from Chrysler, General Motors and Ford supporting the inclusion of the captive imports, and from the United Auto Workers (UAW) and AMC opposing the inclusion. Chrysler supported the inclusion of the captive imports because it believed this would allow the manufacturer to adopt the most cost-effective strategy for maximizing fleet fuel economy. General Motors supported the inclusion of the captive imports because it believed its ownership of 34 percent of the common stock of Isuzu (the producer of the LUV) plus its contractual

control over the design, manufacture, and importing of the LUV vehicles makes General Motors the manufacturer under section 503(c) of Title V. Ford supported the inclusion of the captive imports because it believed Title V requires the separation of domestic and imported vehicles only for passenger automobiles, and because it believes its contractual arrangements with Toyo-Kogyo (the producer of the Courier) make Ford the importer of the Courier and hence the manufacturer under section 501(9). Ford also believes its contractual control over the design and manufacture of the Courier constitutes sufficient control to make it the manufacturer under section 503(c) of Title V. The UAW's opposition was based on its belief that the intent of the Title is to treat all imported and domestic vehicles separately, although it conceded that the language of the Title mandates this separate treatment only for passenger automobiles. AMC objected because it believes that the net effect of the inclusion of the captive imports would be to discriminate against non-importers and stimulate foreign production at the expense of domestic production.

The NHTSA has concluded that the inclusion of the captive imports in the model year (MY) 1979 fleet is proper. First, it is clear that Ford and General Motors are the statutory manufacturers of their captive imports. Under section 503(c), the term "manufacturer" includes anyone who "controls" the manufacture of the vehicle. The NHTSA believes that control is not limited to majority stock ownership. Rather, control may consist of either the ownership of a large enough block of common stock in a producer to constitute effective voting control of the firm, as we believe is true of General Motors' ownership of Isuzu stock, or contractual restrictions on the design and manufacture of the vehicle which essentially eliminate the producer's freedom to alter the production of the vehicle, which we believe is true of the contracts between General Motors and Isuzu and between Ford and Toyo-Kogyo. Therefore, we believe that General Motors' and Ford's relationships with the Japanese producers of these vehicles is sufficient to make General Motors and Ford the statutory manufacturers of these vehicles.

In addition, section 501(9) defines the importer of a vehicle to be its manufacturer. The NHTSA believes that acceptance of delivery in the foreign country and assumption of full responsibility for the shipment and import duties on the vehicles by a domestic firm, as is the case for Ford, is sufficient to make the domestic firm the importer of the vehicle, and hence its manufacturer.

Further, the NHTSA believes that separate treatment of domestic and imported NPA's is not required by the Title. Section 503(b)(1) of Title V requires the separate treatment of domestic and captive import vehicles for passenger automobiles only. Section 503(a)(2) leaves open the question of whether to establish administrative requirements for separate treatment of domestic and captive import nonpassenger automobiles. The House report provides that procedures for calculating nonpassenger automobile average fuel economy are to be similar, although not necessarily identical to the procedures used for passenger automobiles. See H. Rept. No. 340, 94th Cong., 1st Sess. 91 (1975).

The provision in section 503(b)(1) for counting most captive import passenger automobiles together with the domestically produced passenger automobiles in model years 1978 and 1979 provides the affected manufacturers with an opportunity to adjust to the separate treatment requirement. Most domestic manufacturers which have captive import passenger automobiles have comparable domestically produced passenger automobiles also. The agency believes that if there is to be complete separate treatment of captive import and domestically produced nonpassenger automobiles, there should be a similar adjustment period first. One factor in determining the nature of such an adjustment period is the absence of any domestically produced nonpassenger automobiles that are comparable to the captive import nonpassenger automobiles.

The practical effect of not placing a limitation on counting the captive import nonpassenger automobiles in 1979 should be very small. The small, imported pickup truck market in this country, and Ford's and General Motors' share of it, have been fairly stable over the past several years. The agency believes that this stability

will continue through 1979. Therefore, the chances seem minimal of there being any significant increase in the number of captive import nonpassenger automobiles that could be attributed to the absence of a limitation. However, since the manufacturers believe that inclusion of captive imports will help them market a more fuel economical fleet of nonpassenger automobiles, the agency is willing to allow inclusion for model year 1979. Allowing such inclusion may result in some small fuel economy benefits. If it can be demonstrated in a petition for reconsideration that the absence of a limitation on the inclusion of captive imports would have a significant effect on the captive import market, the agency would consider amending the standard.

As to AMC's discrimination argument, it should be noted that while the inclusion of the imports may give a manufacturer importing nonpassenger automobiles with high fuel economy some added flexibility in achieving the standard, this flexibility is no greater than the flexibility that would be enjoyed by a manufacturer which domestically manufactures a number of nonpassenger automobiles with high fuel economy.

Finally, the agency wishes to emphasize again that the decision to include all captive import nonpassenger automobiles in the fleets of the domestic manufacturers which import them applies to model year 1979 only. As part of the rule-making to begin this summer regarding nonpassenger automobile standards for after 1979, the agency is considering establishing a limitation similar to the one for captive import passenger automobiles in 1978 and 1979 and providing for completely separate treatment beginning in the early 1980's. In this connection, the agency will be gathering information regarding the desirability of this approach, and an appropriate base period, similar to the one specified in section 503(b)(2)(B) of the Act, for the purpose of calculating the limitation.

Classes of nonpassenger automobiles. In the NPRM, the agency proposed establishing a standard for nonpassenger automobiles as a single class. The agency stated that it did not have sufficient information to assess the desirability or other implications of a multiple class system, nor had it fully assessed the potential criteria for

differentiating between or among classes, or the effect that a multiple classification system would have on the ability of a manufacturer to balance vehicles with high and low fuel economy.

Several comments discussed the classification issues which were raised in the NPRM. General Motors favored a single class for all nonpassenger automobiles, because such a system would allow a manufacturer maximum flexibility in meeting a standard. General Motors pointed out that a single class would enable the manufacturer to concentrate efforts for fuel economy improvement on its high volume products, while still being able to produce low volume, low fuel economy vehicles. General Motors indicated that a manufacturer might stop producing low volume, low fuel economy nonpassenger automobiles if those nonpassenger automobiles could not be balanced against other, more fuel economical nonpassenger automobiles. AMC argued that a single classification system favored large volume manufacturers with a broad product line which could balance low fuel economy vehicles against high fuel economy vehicles. AMC also argued that the vehicles which it produces, four-wheel drive, general utility jeep-type vehicles should be placed in a separate class because these vehicles were inherently less fuel economical than nonpassenger automobiles in general.

After considering these comments, as well as comments from International Harvester and Ford relating to separate classification, the agency has decided to establish a separate class for four-wheel drive, jeep-type vehicles. Because the agency intends that only four-wheel drive jeep-type vehicles, and not other four-wheel drive vehicles, such as some pickup trucks, be eligible for the separate class, the agency will allow only vehicles with wheelbases less than 110 inches to be eligible for the separate class. Each manufacturer of jeep-type vehicles will have the option of including those vehicles in the separate class, or including those vehicles in the general class of nonpassenger automobiles. In this way, the problems of both the manufacturer with a broad product line and the manufacturer with a narrow product line can be accommodated consistent with the purposes of Title V.

The basis for this decision is described below. The agency wishes to emphasize that the approach taken to the classification issue in this instance will not necessarily be used in the future when considering other manifestations of the classification issue.

Considering whether to establish a separate class for four-wheel drive, jeep-type vehicles brought into focus a problem in the analytical basis of the nonpassenger automobile fuel economy program. On the one hand, section 502(b) clearly gives the agency the authority to establish separate classes of nonpassenger automobiles with each class having a separate standard. This grant of authority recognizes that there are some vehicles which have characteristics in some way related to fuel economy making them either very fuel economical or very fuel uneconomical, which may justify their being subject to a special standard. On the other hand, the fact that standards must be *average* fuel economy standards indicates that the manufacturers should be given some opportunity to balance vehicles with differing fuel economies to ensure, consistent with the need to conserve energy, that a reasonable variety of vehicle types can be produced to satisfy consumer demand.

In consideration of this problem, the agency made the following analysis. In the case of four-wheel drive, jeep-type vehicles, the agency considered whether the vehicles were necessarily low performers (in terms of fuel economy) as compared to nonpassenger automobiles as a group. After considering the relevant comments and other information concerning these vehicles, the agency determined that these vehicles were inherently low fuel performing vehicles in comparison with nonpassenger automobiles in general, due to characteristics such as four-wheel drive and high drive ratios.

After determining that the general utility vehicles had special characteristics relating to fuel economy which could justify a separate standard, the agency next considered the manufacturers of the vehicles to determine whether all nonpassenger automobile manufacturers produce vehicles against which the low performing vehicles could be balanced. A single average fuel economy standard based on the performance of a variety

of nonpassenger automobiles of both inherently high and inherently low fuel economy may not be feasible for a manufacturer of only the inherently low fuel economy nonpassenger automobiles. The manufacturer of only inherently low fuel economy vehicles would not be able to perform the balancing that was assumed in developing the standard, and would therefore be unable to meet the standard. The conference report admonishes the Administrator to weigh the benefits to the Nation of a given fuel economy standard against the difficulties of individual manufacturers in meeting the standard. In doing so, he is cautioned to consider the competitive and national economic implications of the standards that might severely strain any manufacturer. (S. Rept. No. 516, 94th Cong., 1st Sess. 154-155 (1975)).

AMC is a manufacturer of four-wheel drive, jeep-type vehicles, which does not produce a significant number of high fuel economy vehicles against which its Jeep CJ could be balanced. Therefore, in light of the considerations discussed above, the agency deems the four-wheel drive, jeep-type vehicle to be an appropriate candidate for separate classification.

The agency also considered the effect of a separate classification on Toyota, another manufacturer of a general utility, jeep-type vehicle. Toyota produces mostly very high fuel economy nonpassenger automobiles, against which their Land Cruiser, which makes up approximately 17 percent of their total nonpassenger automobile production, can be balanced. In addition, the Land Cruiser is much heavier and has substantially lower fuel economy than the AMC Jeep CJ. Because the Jeep CJ represents a much larger part of the four-wheel drive, jeep-type vehicle market, the maximum feasible level of fuel economy would be influenced more by the Jeep CJ than the Land Cruiser. The agency believes that Toyota would be unlikely to spend substantial resources to improve the fuel economy of the Land Cruiser to the level where it could comply with the standard because that vehicle represents such a small portion of the Toyota fleet. Therefore, the agency believes it likely that Toyota would abandon the general utility, jeep-type vehicle market in this country rather than improve the fuel economy of the Land

Cruiser, or pay a substantial civil penalty. The effect of Toyota's leaving the market would be to improve total average fuel economy of the nonpassenger automobile industry only slightly, but reduce competition in the general utility, jeep-type market under 6000 GVWR from two significant competitors to one. (Although Chrysler produces a four-wheel drive, general utility vehicle, Chrysler is not considered a significant competitive force since only 1700 of their vehicles were sold in model year 1976. Moreover, Chrysler's response to a standard for jeep-type vehicles is very difficult to gauge. Chrysler would have to improve fuel economy less than Toyota, but the Chrysler fleet of jeep-type vehicles is very small.) The agency believes that this lessening of competition should be avoided if possible, consistent with the need to conserve energy.

Therefore, the agency has given the manufacturers the option of including their four-wheel drive, jeep-type vehicles in the special class for such vehicles, or in the overall nonpassenger automobile class. In this way, AMC could meet a standard that was appropriate for its Jeep CJ, and Toyota would be able to balance the fuel economy of its Land Cruiser against the fuel economies of its highly fuel economical other nonpassenger automobiles if it chose to do so. By so doing, Toyota would be more likely to stay in the market.

The agency wishes to point out that the analysis leading to the decision to treat four-wheel drive, jeep-type vehicles as a separate class is closely tied to the language and purpose of Title V. Thus, the agency expresses no opinion as to whether such vehicles should be treated separately for other regulatory purposes, such as safety or emissions control.

A final point must be made. Although the agency has determined that certain characteristics of four-wheel drive, jeep-type vehicles result in those vehicles having an inherently lower fuel economy and therefore a lower fuel economy standard than more numerous nonpassenger automobiles, such as pickup trucks and vans, the jeep-type vehicles will still be expected to have improved fuel economy. The agency believes that these vehicles can improve fuel economy

through weight reduction, technological improvements, and performance reductions consistent with their intended use.

Responsibility for compliance. Each manufacturer is responsible for the fuel economy of the complete automobiles that it produces in a single stage. With respect to automobiles manufactured by two or more manufacturers, the agency has issued a proposed rule that would, in most circumstances, place the responsibility for their fuel economy on the manufacturer of the incomplete automobile (frame and chassis structure, power train, steering system, suspension system, and braking system). (Notice of Proposed Rulemaking, Manufacture of Multistage Automobiles, 42 FR 9040, February 14, 1977.) Under the contemplated scheme, such a manufacturer must determine the fuel economy of the automobiles it manufactures and include those automobiles in its fleet in calculating its average fuel economy. The incomplete vehicle manufacturer must also specify a maximum curb weight and a maximum frontal area with which the vehicle is to be completed. If the final stage manufacturer completes the automobile so as to exceed either maximum or if it sells the automobile as one manufactured in a model year subsequent to the model year during which the incomplete vehicle manufacturer produced the incomplete vehicle, that final stage manufacturer would then become the manufacturer of the automobile for purposes of Title V.

Measures to Improve Fuel Economy. In the NPRM, the NHTSA discussed several methods which could be used by manufacturers of nonpassenger automobiles to improve the average fuel economy of their nonpassenger automobile fleets. These methods included such techniques as technological improvements, weight reduction, and performance reductions. Many comments directed at these discussions of fuel economy improvement techniques were received from manufacturers of nonpassenger automobiles. Virtually all these comments made the point that the NHTSA, in one way or another, had overstated the potential for fuel economy improvement in nonpassenger automobiles.

It is important to put the assessment of fuel economy improvement contained in the NPRM

in the proper perspective. The NPRM proposed an average fuel economy standard of 18.7 mpg. This proposed standard was intended to be set at a level that all manufacturers could meet without substantially modifying their product plans for model year 1979. The 18.7 mpg standard also assumed that there would be no adverse fuel economy effects resulting from the emissions standard and fuel economy testing procedures established by the EPA for model year 1979. In developing the proposed standard, NHTSA performed an engineering analysis to determine the appropriate level at which to set the standard consistent with that intention and assumption. This engineering analysis, which contained the discussion of the fuel economy improvement measures that were criticized by the commenters, concluded that those manufacturers that did not indicate a planned level of fuel economy of 18.7 mpg for model year 1979 could achieve that level without a substantial modification of their product plans (41 FR 52092). The NPRM made it clear that the NHTSA analysis of fuel economy potential did not depend on manufacturers' employing any particular method or methods of fuel economy improvement. The NPRM clearly stated:

The agency wishes to emphasize that the proposed standard is a performance standard and, therefore, that the manufacturers would not be required to take any particular step discussed below. It is anticipated, however, that each manufacturer would take one or more of the steps and place its own unique emphasis on each of those steps. Thus, the fuel economy improvements derived from those steps by a particular manufacturer would vary from the percentage fuel economy improvements as calculated by the agency.

Thus, the discussion of methods by which fuel economy could be improved was only a general discussion of how some manufacturers of nonpassenger automobiles could modify their product plans slightly to achieve an average fuel economy of 18.7 mpg by model year 1979. Although, in general, weight reduction, performance reduction, technological improvements, and aerodynamic improvements are the basic methods to

improve automotive fuel economy, the discussion in the NPRM was clearly not an exhaustive list of the details of fuel economy improvement possibilities, nor a directive to manufacturers instructing them on how to improve fuel economy. The agency anticipated that each manufacturer would achieve 18.7 mpg as it determined was best for itself.

The comments by the manufacturers to the NPRM indicate that the manufacturers will be able to achieve an average fuel economy of at least 18.7 mpg, assuming no fuel economy consequences due to emissions standards and testing procedures. Ford and General Motors each recommended a standard which they derived by reducing the proposed 18.7 mpg standard by the claimed effects of EPA's actions regarding emissions and testing procedures for model year 1979. Thus, both Ford and General Motors appear to assume that they will be able to achieve an average fuel economy of at least 18.7 mpg, excluding the possible effects of the 1979 emissions standard and test procedures. An analysis of Chrysler's comments leads to the same apparent assumption that at least 18.7 mpg is achievable by 1979. Chrysler projected an average fuel economy standard for model year 1979 of 16.5 mpg, assuming 1979 emissions standards and testing procedures. Chrysler stated that the change in emissions standards from 1976 to 1979 would result in a fuel economy loss of approximately 5 percent, and the change in testing procedures would result in a measured fuel economy loss of 8 percent. If those fuel economy losses, totalling 13 percent, are taken out of the Chrysler projection, their projection would be 19 mpg in 1979, under 1976 emissions standards and test procedures.

Thus, although Ford, General Motors, and Chrysler all criticized the NHTSA analysis of fuel economy improvement potential, those companies did not claim that they were incapable of reaching at least 18.7 mpg. Indeed, they tacitly agreed that 18.7 mpg, under 1976 emissions standards and test procedures, is achievable. Therefore, there is no need for the NHTSA to change the final standard for model year 1979 in light of those comments. The proper level of

the standard will depend on whether changes in the emissions standards or testing procedures result in reductions in fuel economy, not whether the NHTSA has correctly evaluated the fuel economy improvement potential through a particular combination of a variety of specified measures. However, the agency still believes, based on its analysis and considering the comments, that an average fuel economy level of 18.7 mpg, under 1976 emissions standards and testing procedures, is achievable without significant changes in product plans.

It is important to note that many of the comments received in this area are relevant to fuel economy standards for model years beyond 1979. They will be considered in connection with the development of those standards.

Effect of Federal Emissions Standards and Testing Procedures. EPA has established more stringent emission standards for model year 1979. EPA has also modified the testing procedures for measuring emissions for nonpassenger automobiles in model year 1979 (December 28, 1976, *Federal Register* 56316). The test procedure changes establish a higher road load horsepower requirement for test vehicles than the previous year. On the basis of various studies, EPA has concluded that the revised road load horsepower requirement is a more accurate description of conditions which an in-use vehicle experiences. Aside from a small increase in NO_x any effect that the test procedure change has on fuel economy is a *measured* effect only; it has no impact on real, in-use fuel consumption of a vehicle.

The standard proposed by the NHTSA was based on the assumption that changes made by the EPA in the MY 1979 emissions standard and testing procedures applicable to nonpassenger automobiles would impose no fuel economy penalty or testing effect on vehicles of the manufacturers. NHTSA recognized, however, that this assumption was subject to some doubt, and indicated a willingness to revise the standard to take into account any such penalty or effect actually shown to exist. Comments and information on the existence and magnitude of these penalties were requested from all interested parties.

Comments were received from General Motors, Ford, Chrysler, AMC and International Harvester. Every manufacturer challenged the assumption that the revised EPA emissions standard and testing procedures would have no effect on average fuel economy. International Harvester believes the penalty due to the emission standard will be 10-15 percent. AMC estimated the combined penalty to be greater than 10 percent. The estimated fuel economy penalty due to the emission standard, including the effect of increased NOx emissions resulting from higher engine loading due to the revised test procedures, was 5 percent for General Motors, 3 percent for Ford, and 7 percent for Chrysler. General Motors estimates the fuel economy effect for revised testing to be 6.2 percent. Ford estimates the testing effect to be 9 percent. Chrysler estimates the testing effect at 6 percent. General Motors, Ford and Chrysler also submitted to the NHTSA the data upon which these estimates were made.

After a consideration of technology that will be available in model year 1979, and the ability to optimize engine calibration, and a careful analysis of the data supplied by the manufacturers, the NHTSA has concluded that the manufacturers have failed to show that there will be any penalty due to the tighter emissions standard. However, they have shown an effect of 8 percent due to the revised testing procedures.

The change in the EPA emissions standard that affects fuel economy is the lowering of the standard for NOx from 3.1 grams per mile (gpm) to 2.3 gpm. It is not disputed that meeting a more stringent NOx standard can result in taking product actions that would cause a degradation of fuel economy from levels achieved by a vehicle meeting a less stringent standard. However, it is also true that a number of product actions related to emissions control can be taken to restore the lost fuel economy. For example, where NOx is reduced through engine recalibration, which can result in lost fuel economy, the recalibration can be optimized to eliminate, or at least reduce, the fuel economy penalty. This optimization, or fine tuning, has occurred in the past as manufacturers have accumulated experience with the engine recalibration. Also, emissions control systems improve as the manufac-

turers gain experience with them, which can result in improved NOx control without a loss of fuel economy. Moreover, the use of existing emissions control systems, such as back pressure or proportional exhaust gas recirculation (EGR) systems, can be expanded for nonpassenger automobiles. Finally, advance emission control systems, such as three-way catalysts or electronic EGR, exist and could be used for nonpassenger automobiles, although the agency recognizes that such advanced systems may not be cost effective in controlling NOx to meet a standard of 2.3 gpm.

In light of these possibilities for achieving increased emissions control while maintaining fuel economy, the agency assumed that by model year 1979 manufacturers would be able to meet the 2.3 gpm NOx standard without a degradation in fuel economy from the level achievable when the NOx standard was 3.1 gpm. The NPRM solicited comments on this assumption of no fuel economy loss due to a tightened NOx standard. Although manufacturers submitted a significant amount of information on the issue, the manufacturers failed to show that a NOx standard of 2.3 gpm would necessarily result in a loss of fuel economy.

General Motors tested five different vehicles to establish the magnitude of the fuel economy penalty due to the revised emission standard. The vehicles were tested before and after recalibration to reduce NOx from the level required to meet the 3.1 gpm NOx standard to the level required to meet the 2.3 gpm NOx standard. The recalibration consisted of increased EGR flow rates and/or spark retard. General Motors' test data is inconsistent with regard to the relationship between reduction in NOx and fuel economy. One vehicle met the new NOx standard as delivered and was not recalibrated from the calibrations used to meet the 3.1 gpm standard. Two vehicles of the same engine family showed small reductions in fuel economy and one vehicle showed a large reduction in fuel economy. General Motors averaged the data with no weighting to reflect sales mix and extrapolated the results to the percent NOx reduction for the MY 1979 emission standard level since the arithmetic averaged NOx reductions in their test did not meet a level required for the 2.3 gpm standard. The General Motors testing methodology was unsat-

isfactory because the sample tested did not adequately represent General Motors' fleet and no replicate tests and only one replicate vehicle configuration were included. Additionally, using a non-weighted average is improper unless the results from one engine family are representative of all engine families. This was not shown to be the case for General Motors data, which indicated a wide range of results. In addition to the inconsistency of the test results, and the flaws in methodology, the other serious deficiencies in the General Motors test program were that it considered no improved emission control technology, especially improved EGR systems, and the recalibrations were not optimized.

Ford tested five nonpassenger automobiles in three engine families with one replicate vehicle configuration in two of the engine families. Ford data were the best submitted by a manufacturer since they had replicate vehicles and repeat tests (from two to four of each). Again, however, not all vehicle configurations were represented. Ford's vehicle recalibration was successful in meeting target emission levels although one vehicle met the revised emission standard by a sufficient margin without recalibration. However, the recalibrations were performed on current emission control systems and no mention was made of improved EGR systems. Also, there was no evidence that the calibrations were optimized. For the replicate vehicles, there was considerable variability in the effect of the recalibrations. It was concluded that Ford data, like the GM data, demonstrated an inconsistent effect on fuel economy of meeting a NOx standard of 2.3 gpm and demonstrated wide vehicle variability. It was also noted that in one case a recalibration to reduce NOx emissions improved fuel economy. This is evidence that other calibrations were not optimized. Ford arrived at its claimed fuel economy penalty by arithmetically averaging the results of its tests. This is improper unless the same results are expected for each engine family. In addition to its test data, Ford supplied supplemental data on the effects of the tighter California emission standard on fuel economy. The NHTSA believes the data are of limited usefulness because they rely on existing emission control technology for the California fleet, which is a small portion of the

total fleet. Needs of the California fleet may not justify major changes in control techniques from those applied to the 49-state fleet. Moreover, the Ford data regarding California vehicles is inconsistent. Ford indicated that going from an engineering goal to meet a NOx standard of 3.1 gpm to a goal to meet a standard of 2.0 gpm in California resulted in a 10 percent reduction in fuel economy. However, Ford stated that the penalty from going from 3.1 to 2.3 for the 49-state fleet would result in a penalty of only 2 percent. In light of this discrepancy, the agency believes that comparisons with California vehicles are not particularly compelling.

Chrysler recalibrated three MY 1979 passenger cars from a 2.0 gpm NOx standard level to a 3.1 gpm NOx standard level and interpolated the resulting fuel economy penalty for a reduction in NOx from 3.1 gpm to 2.3 gpm. All vehicles were tested twice, but no identical vehicles or additional configurations were included. The results showed considerable variability in the claimed effect on fuel economy of the MY 1979 emission standard. The most serious deficiency, in NHTSA's opinion, is the fact that they tested passenger automobiles rather than nonpassenger automobiles. Besides the differences in attributes such as axle ratios between nonpassenger automobiles and passenger automobiles, the recalibration of model year 1977 vehicles ignores the improvements in the emission control systems and calibrations between MY 1976 and MY 1977 for passenger automobiles. Also, no allowance is made for similar improvements in nonpassenger automobiles emission control systems and calibration optimization by MY 1979. Chrysler also supplied a comparison of 49-state and California fleets of nonpassenger automobiles. This comparison is subject to the same criticism as for that of Ford.

NHTSA performed a statistical analysis of the data submitted by the manufacturers to assess the reliability of the data for estimating the level of penalty they claimed. A 95 percent confidence interval (i.e., the range of values within which the true level of any penalty lies with a 0.95 probability) was calculated for the claimed fuel economy penalty for each manufacturer and for the total fleet. The results of this analysis showed that even if the analysis consid-

ered improvements in emissions control technology and optimization of recalibration, and even if the vehicles tested were representative of the manufacturers' fleets, the claims of the manufacturers are not supported by the data because of the wide range of the confidence interval.

In conclusion, NHTSA considers the manufacturers' claims of a fuel economy penalty resulting from the need to reduce NOx emissions in MY 1979 to be unsupported by their submissions. NHTSA considers the results of a proper recalibration program more compelling than any other means of supporting a claim. The recalibration programs undertaken by the manufacturers were in some cases unsuccessful in reducing NOx emission to the levels desired. More importantly, the recalibrations performed neither demonstrate nor anticipate optimization of calibration nor new technology. Given the fact that the recalibration programs were inconsistent and inconclusive, NHTSA must rely on recognizing past accomplishments and on anticipating new technology. EPA has stated in their rulemaking action for the MY 1979 emission standard that there does not have to be a fuel economy penalty associated with its standard if the manufacturers have enough leadtime to optimize calibrations and control system designs. NHTSA agrees that there doesn't have to be a penalty if leadtime exists for recalibration optimization. Past performance indicates sufficient leadtime exists. However, NHTSA does not say there will be no penalty. Rather, the agency believes that the manufacturers have not demonstrated a penalty. The average fuel economy standard for model year 1979 has been set with no reduction included for the MY 1979 emission standard. However, the agency is open to submissions of further test data and leadtime information that will support the manufacturers' claims.

Unlike the situation with the change in emissions standards, the change in testing procedures, which includes an increase in the roadload horsepower setting of approximately 30 percent, will definitely result in a decrease in measured fuel economy. Manufacturers submitted data to show the effect of the revised testing procedure on measured fuel economy. The agency performed an analysis of the data submitted by the manufacturers.

The agency believes that the data submitted by Ford are the most meaningful because of the large number of vehicles tested (96 vehicles) in 550 separate tests, the testing of many identical vehicles, and because many of the tests were repeated. This amount of data enabled the NHTSA to use a statistical analysis procedure to show that if a 95 percent confidence interval for the effect on fuel economy for the entire fleet of Ford nonpassenger automobiles was computed, this fleet average effect would have a narrow confidence interval range, and would be considered to be highly reliable. The General Motors data are considered less reliable because of the fewer number of vehicles tested, the fact that there were no tests on identical vehicles, no tests were duplicated, and the data are highly variable. Chrysler's data are considered less reliable than Ford's because only 2 of 3 engine families were tested, and there were no tests of all vehicle configurations or duplicate tests. After a careful analysis of these results, the NHTSA believes the manufacturers have demonstrated an 8 percent fuel economy effect and the average fuel economy standard has been reduced to reflect this effect. This effect reflects primarily the results of the Ford analysis. However, for use on an industrywide basis, the effect demonstrated by Ford has been reduced slightly in light of differences between the Ford fleet and the industry fleet. For example, Ford produces a greater percentage of 6-cylinder engines than the industry average. In addition, Ford's average frontal area is larger than the industry average, which would cause a higher percentage of increase in road load. Both of these facts would result in a greater fuel economy effect. Also Ford produces a higher percentage of 4,000 pound inertia weight nonpassenger automobiles than the industry as a whole does. The percent increase in road load horsepower is greater for these lighter vehicles. Thus, the effect of the testing procedures on the industry average fuel economy would be slightly less than on Ford's average fuel economy.

Although the NHTSA is applying this correction for model year 1979, it will be revised in future model years if further data or analysis indicate that is appropriate.

Effect of California emissions standards. Ford stated that the 1979 emissions standards for California, which are more stringent than the 1979 Federal standards, will result in its California fleet of nonpassenger automobiles having an average fuel economy approximately 6 percent lower than its Federal fleet. Ford stated that the effect of the California fleet would be to lower the average fuel economy of its 50-state fleet by 0.1 mpg. Chrysler provided information showing that its California fleet will lower the average fuel economy of its 50-state fleet by 0.3 mpg. The NHTSA recognizes that emissions requirements for vehicles sold in California and the different mix of vehicles sold in California may have the effect of lowering the 50-state average fuel economy of a manufacturer of nonpassenger automobiles. However, neither Ford nor Chrysler made an adequate case for lowering the proposed standard because of the effect of the California vehicles. Ford, in information provided to the NHTSA in response to the agency's questionnaire circulated last summer, projected an average fuel economy for its nonpassenger automobiles manufactured in model year 1979 in excess of 19 mpg, without considering the effects of the 1979 Federal emissions standards and testing procedures. Although Ford's California vehicles may lower its 50-state average fuel economy by 0.1 mpg, Ford will still be capable of achieving a level of fuel economy under 1976 Federal emissions standards and testing procedures that is higher than the 18.7 proposed in the NPRM. Likewise, although Chrysler indicated some effect of the California standards on its average fuel economy, Chrysler still projected an average fuel economy for 1979 of 16.5 mpg, based on 1979 Federal testing procedures and emissions standards. If the fuel economy penalty and testing penalty estimated by Chrysler for emissions and testing procedures of 13 percent is taken out, Chrysler in effect projects a fuel economy of 19.0 mpg for 1979. Therefore, although California standards may make achievement of the level of 18.7 mpg, under 1976 Federal emissions standards and testing procedures, more difficult, there is no showing by Chrysler or Ford that the California standards make achievement of the level of 18.7 mpg infeasible.

Comparison of proposed standard for nonpassenger automobiles with standard established for passenger automobiles. In section 502(a)(1) of Title V, Congress established an average fuel economy standard for passenger automobiles manufactured in model year 1979 of 19.0 mpg. Congress established no standards for nonpassenger automobiles. Several commenters have argued that the proposed average fuel economy standard for nonpassenger automobiles of 18.7 mpg was too high, based on a comparison between the proposed nonpassenger automobile standard and the passenger automobile standard established by Congress. General Motors stated that there was an average difference in inertia weight of 500 pounds between passenger automobiles and nonpassenger automobiles and if the fuel economy costs of the extra 500 pounds were considered, the fuel economy standard for nonpassenger automobiles should be no more than 16.9 mpg to be consistent with the standard for passenger automobiles. Chrysler argued that an average fuel economy standard for nonpassenger automobiles which was only 0.3 mpg below that set for passenger automobiles failed to take into account the difference between passenger and nonpassenger automobiles. In particular, Chrysler stated that if the nonpassenger automobile standard remained at 18.7 mpg, after considering the effect of emissions standards and testing procedures that will be in effect in model year 1979, that standard would be equivalent to a standard of 21 mpg calculated under the emissions standards and testing procedures which Chrysler stated were used by Congress in establishing the passenger automobile standard of 19.0 mpg.

The NHTSA believes that these comments do not contain a legitimate reason for lowering the proposed fuel economy standard for nonpassenger automobiles. Title V does not require, or even hint, that the fuel economy standard which the agency establishes for nonpassenger automobiles must be comparable to the standard which Congress set for passenger automobiles. What Title V requires is that average fuel economy standards established by the agency for nonpassenger automobiles be set at the level of maximum feasible fuel economy. This is what the agency has done. In addition, because the agency is analyzing fuel economy potential on the basis of

data that are current now, rather than data that were current in 1975 when Title V was drafted, the agency believes that its own analysis of the proper level of fuel economy is deserving of greater weight than the earlier analysis of Congress.

Cost and Benefit Analysis. The NPRM contained a summary of costs and benefits concerning the proposed average fuel economy standard for nonpassenger automobiles. Ford stated that the NHTSA overstated the benefits and understated the costs of the proposed standard. Specifically, Ford stated that (1) the value of the gasoline saved was overstated because the price of gasoline assumed by NHTSA, \$.65 per gallon, included an excise tax of \$.13 per gallon, (2) the mileage used for calculating fuel savings should reflect the fact that annual vehicle mileage decreases as the vehicle grows older, and that the assumed vehicle life should reflect vehicle mortality statistics rather than an average life of ten years, (3) performance reductions in vehicles are not "virtually cost free," as stated in the NPRM, but have increased costs to consumers through reduced carrying capacity and increased trip time, (4) the cost of meeting the standard, if the proposed standard of 18.7 mpg is not reduced because of the penalties from 1979 emissions standards and testing procedures, will be at least \$100.00, rather than the \$12.00 assumed by NHTSA, (5) the cost increase due to meeting the 1979 emission standards is higher than assumed by the NHTSA, and (6) the weight reduction which NHTSA speculated might be necessary for General Motors to meet the standard can not necessarily be achieved for the cost estimated by NHTSA (\$10.00–15.00 variable cost per vehicle and \$500,000 investment), and that there is little correlation among particular weight reduction, variable costs, and investment levels associated with different components.

With respect to Ford's comment on the proper value of gasoline, it should be noted that the benefit and cost summary that was contained in the NPRM related to benefits and costs to consumers. Therefore, since consumers pay the excise tax on gasoline, it is proper to include that tax in a computation of the value of saved gasoline to the consumer. It is also important to

note that the NHTSA considers \$.65 per gallon to be a conservative estimate of the value of gasoline. The diminishing gasoline resources, and the uncertainty of the availability of petroleum for manufacturing gasoline, which led Congress to establish the mandatory fuel economy program, give the agency reason to believe that the current pump price of gasoline is not an adequate indicator of its true social value.

The annual mileage figure used by the agency to calculate fuel savings was found in the Census of Transportation, 1972 Truck Inventory and Use Survey, published by the United States Bureau of the Census. Although annual vehicle mileage decreases with the age of the vehicle, assuming constant 11,000 miles per year for the vehicles' life does not result in an inaccurate evaluation of total costs. It is the consideration of the total costs of the standard which the agency must consider.

The summary of costs and benefits of the proposed standard considered only quantifiable expenditures and savings related to the standard. Although Ford is correct that there may be some additional costs of the improved fuel economy in terms of reduced utility, these nonquantifiable costs were not contained in the summary of costs and benefits. Since the final rule, like the proposed rule, is based upon the manufacturers' product plans for model year 1979, these performance costs are not expected to be great.

Ford contended that meeting the average fuel economy standards would result in an average retail price equivalent increase of at least \$100.00 per vehicle, if the proposed standard of 18.7 mpg were not reduced for emissions and testing penalties. Since the final standard reflects a substantial reduction from the proposed standard of 8 percent, due to the change in the fuel economy testing procedures, the agency assumes that the estimated price increase of \$100.00 is no longer applicable. Although some price increase may be likely to meet the final standard, there is nothing in the Ford comment to indicate that the NHTSA estimate of \$24.00 per vehicle retail price increase (\$12 cost to the manufacturer, with a markup of 100 percent) is an incorrect estimate of that increase.

With respect to the costs of fuel economy testing and compliance with emissions requirements, the figures assumed were supplied to NHTSA by the EPA, and represent its estimate of the average industry costs. The EPA estimate includes allowances for reuse of the vehicle. The Ford comment does not seem to recognize that an entirely new vehicle is not necessary to test each base level. Changes in recalibration and axle ratios can be made to vehicles, and allow some of the testing costs to be spread over a number of tests. Therefore, Ford's estimate of testing costs seems high. However, even assuming that Ford's estimates of the cost of testing are correct, that higher testing cost is not a basis for modifying the standard, or deciding not to establish a standard. The agency is required by section 502(b) of Title V to establish an average fuel economy standard for nonpassenger automobiles manufactured in model year 1979. Therefore, even assuming that Ford's estimate of testing costs represents a legitimate upper limit of the range of reasonable estimates of testing costs, the agency would not modify its decisions on the basis of the Ford cost figures.

With respect to Ford's contention that there is little correlation between particular weight reduction, variable cost, and investment level, the agency realized that some ways of taking weight out of a nonpassenger automobile are more expensive than others. In evaluating the cost of weight reduction, the agency assumed that the manufacturer would attempt to use less expensive techniques of weight reduction.

In light of the foregoing, Title 49, Code of Federal Regulations, is amended by adding a new Part 533, *Average Fuel Economy Standards for Nonpassenger Automobiles*...

(Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); Sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2002); delegation of authority at 41 FR 25015, June 22, 1976.)

Issued on March 8, 1977.

John W. Snow
Administrator
National Highway Traffic
Safety Administration
42 F.R. 13807
March 14, 1977

PREAMBLE TO PART 533—LIGHT TRUCK FUEL ECONOMY STANDARDS

(Docket No. FE 77-05; Notice 5)

This notice amends the definition of "basic engine," as it appears in the light truck fuel economy standards of the National Highway Traffic Safety Administration. The amendment is intended to clarify the applicability of various light truck fuel economy standards for the 1980 and 1981 model years.

Date: This amendment is effective October 10, 1978.

For further information contact:

Roger Fairchild, Office of Chief Counsel,
National Highway Traffic Safety Administration,
400 Seventh Street, S.W., Washington,
D.C. 20590 (202-426-2992).

Supplementary information: On March 23, 1978, the agency published a definition of "basic engine" as part of its fuel economy standards for 1980-81 model year light trucks. See 43 F.R. 11995, 49 CFR 533.4. That definition is relevant solely to the determination of which light trucks are "limited product line light trucks," and therefore subject to less stringent fuel economy standards. The latter definition was intended to identify the class of light trucks manufactured by companies which had not had experience designing and applying the advanced emission control systems necessary to meet current and near-term future passenger automobile emission standards. Those systems will be required for many light trucks for the first time beginning in model year 1979. The agency had International Harvester primarily in mind, given the company's unique problems resulting from its limited sales volume, restricted product line, and the fact that its engines are derivatives of medium duty truck (above 10,000 pounds GVWR) engines. See 43 F.R. 11998.

The original "basic engine" definition incorporates the definition appearing in the Environmental Protection Agency's regulation, 40 CFR

600.002-80(21), which defines that term as "a unique combination of manufacturer, engine displacement, number of cylinders, fuel system (as distinguished by number of carburetor barrels or use of fuel injection), catalyst usage, and other engine and emission control system characteristics specified by the Administrator." "Limited product line light truck" is in turn defined by NHTSA as "a light truck manufactured by a manufacturer whose light truck fleet is powered exclusively by basic engines which are not also used in passenger automobiles." See 49 CFR 533.4.

Although the EPA regulation defining "basic engine" does not on its face present any problem in NHTSA's definitional scheme, it grants EPA the authority to designate additional criteria to distinguish "basic engines". EPA has exercised this authority to classify otherwise identical engines used in both cars and trucks as two separate "basic engines," one for passenger cars, and the other for trucks. The effect of this administrative interpretation of the EPA regulation is arguably to cause *virtually all* light trucks to be "limited product line light trucks" under NHTSA's definitions, contrary to NHTSA's expressed limited intent. Therefore, NHTSA is revising the "basic engine" definition to exclude the additional characteristics specified by the EPA Administrator in that agency's advisory circular.

Since this amendment is in the nature of technical correction and makes the regulations conform to NHTSA's originally expressed intent, and because of the need to immediately clarify any ambiguity in the regulation, it is determined that a notice of proposed rulemaking is unnecessary and contrary to the public interest, within the meaning of 5 U.S.C. 553(b). Therefore, this amendment will be effective immediately.

The National Highway Traffic Safety Administration has determined that this document does not contain a significant regulation requiring a regulatory analysis under Executive Order 12044. Furthermore, this action does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq).

In consideration of the foregoing, 49 CFR Chapter V is amended. . . .

Authority: Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); sec. 301, Pub. L. 94-163, 89

Stat. 901 (15 U.S.C. 2002); delegation of authority at 41 FR 25015, June 22, 1976.

The principal drafter of this document is Roger C. Fairchild.

Issued on October 2, 1978.

Joan Claybrook
Administrator

43 F.R. 46546
October 10, 1978

PREAMBLE TO PART 533—LIGHT TRUCK FUEL ECONOMY STANDARDS

(Docket No. FE 77-5; Notice 7)

Action: Final rule.

Summary: This notice reduces the average fuel economy standards applicable to two wheel drive light trucks manufactured in model year 1981. This action is taken in response to a petition from Chrysler Corporation providing new information which indicates that their capability to improve the fuel economy of those trucks is less than had been determined in the earlier rule-making. This notice also denies Chrysler's request to reduce the fuel economy standards applicable to four wheel drive light trucks. The reduction of the two wheel drive standard is intended to produce standards which are still at the maximum feasible levels achievable by the manufacturers taking the new information into account.

Dates: These standards are applicable for the 1981 model year.

For further information contact:

Mr. Francis J. Turpin, Office of Automotive Fuel Economy Standards (NRM-21), National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-472-6902).

Supplementary information:

BACKGROUND

On March 23, 1978, in 43 FR 11995, NHTSA established fuel economy standards for light trucks manufactured in the 1980-81 model years. The 1981 standards were established at levels of 18.0 mpg for two-wheel drive (4X2) light trucks and 15.5 mpg for four-wheel drive (4X4) light trucks. Vehicles subject to the standards include pick-up trucks, vans, and utility vehicles with gross vehicle weight ratings (GVWR) of up to and including 8500 pounds. The establishment of these standards is authorized by section 502(b) of the Motor Vehicle Information

and Cost Savings Act ("the Act"), 15 U.S.C. 2002(b). The Act requires that standards be established for each model year at the "maximum feasible average fuel economy level," considering technological feasibility, economic practicability, the effects of other Federal motor vehicle standards on fuel economy, and the need of the Nation to conserve energy.

The fuel economy standards were largely based on the plans of the manufacturers to make specified improvements to increase the fuel economy of their trucks. They were set under the presumption that the Environmental Protection Agency (EPA) would approve by January 1, 1980, the use of low friction lubricants in fuel economy testing under its procedures. The final rule provided that if approval were not given by that date, the standards would each be 0.5 mpg less, i.e., 17.5 mpg for 4X2's and 15.0 mpg for 4X4's. This reduction in the fuel economy standards would be made to account for the manufacturers' diminished fuel economy improvement capability should they not be permitted to obtain credit for the benefits associated with use of these lubricants.

On September 20, 1978, Chrysler requested that these standards be reduced to 16.5 and 14.5 mpg for 4X2's and 4X4's respectively. Chrysler claimed that without such a reduction, it would be required to either violate the standards or drastically curtail its sales of larger, less fuel efficient trucks. After ascertaining that Chrysler intended this request to be treated as a formal petition for rulemaking under the agency's procedures, the agency requested that specific information supporting the petition be submitted. Some of this information was submitted on November 24, 1978, and the agency initiated rule-making on the petition on December 18, 1978. See 43 FR 58840. The notice did not propose any specific change in the standards. Rather, it

mentioned the reductions by Chrysler and invited comment on issues raised by that company's petition.

The agency also contacted the other vehicle manufacturers to determine whether they were having similar difficulties in working toward compliance with the 1981 standards. Ford projected being able to achieve 17.6 mpg for its 4X2 fleet by 1981, thereby complying with the standard only if the lubricant-related standard reduction occurred. That company projected being capable of obtaining only a 0.1 mpg benefit from the use of improved engine lubricants, rather than the 0.5 mpg projected by the agency. GM projected its "free market" improvement capability for 1981 to be only 16.2 mpg, despite the fact that it projected compliance with the 18 mpg standard a year ago. The main factors in the lower GM capability projection are its changed position on the feasibility of certain marketing actions to improve its fuel economy by 0.8 mpg by 1981 and a complete (and only partially explained) reversal of position on its ability to offset the effects of changes in light truck emission standards. In the case of the 4X4 standard, American Motors and Ford project compliance with the 15.5 mpg standard, while GM projected only 14.2 mpg, for the same reasons as in the case of the 4X2 standard.

SUMMARY OF DECISION

The 1981 4X2 standard is being reduced by 0.8 mpg to 17.2 and Chrysler's request for a reduction of the 4X4 standard is being denied. The agency agrees with the arguments presented by Chrysler and the other companies in most respects, the main exception being the issue of whether the use of improved lubricants could provide a fuel economy benefit for 1981 model year light trucks. In that case, the impact on the standards of the agency's disagreement is contingent upon whether the EPA permits the use of these lubricants in fuel economy testing by January 1, 1980. If EPA does not approve the lubricants, each of the standards would be 0.5 mpg less, i.e., the standards would be 16.7 mpg for 4X2's and 15.0 mpg for 4X4's.

The major differences between the basis for this decision and that for the prior rulemaking are (in order of magnitude of fuel economy

effect for Chrysler): reductions in expected fuel economy benefits from engine displacement or drive ratio reductions, engine efficiency improvements and weight reduction; errors in the agency's prior baseline or larger than anticipated effects of emission standards and test procedure changes; reduced benefits from aerodynamic and rolling resistance changes; changes in product mix; and changes in EPA fuel economy test procedures. Each of these areas resulted in a reduction in the agency's fuel economy improvement projections for Chrysler of from 0.1 mpg to 0.5 mpg, with the magnitude of the effect varying for the 4X2 and 4X4 fleets. Chrysler also provided information on certain fuel economy improvements which it plans to implement for the 1981 model year but which were not included in the agency's original standard-setting analysis. These items have been included in the agency's analysis of the Chrysler petition, and partially offset the effects of the previously mentioned reductions in fuel economy improvement potential. For the other manufacturers, the main factor causing their lowered projected capabilities is (in addition to the factors previously discussed) the agency's changed position on the effect of 1979 model year emission standards. While in the 1980-81 rulemaking, the agency concluded that the more stringent emission standards need not reduce fuel economy below pre-1979 levels, the agency now believes that a fuel economy impact of the more stringent 1979 emission standards exists and cannot be offset by 1981.

In deciding whether the standards should be reduced, the agency balanced the difficulties of the manufacturers in meeting the previously established standards against the benefits to the nation of compliance with the higher standards. In this case, it was decided that the marketing risks associated with meeting the higher 4X2 standard outweighed the potential energy savings.

The agency's analysis of the more significant areas of disagreement between the Chrysler petition and the conclusions drawn in the previous rulemaking to establish the 1981 standards follows. In conducting this analysis, the agency viewed the Chrysler petition as a continuation of the original rulemaking. If any changes were

to be made in the existing standards, the petitioner would have to demonstrate to the agency's satisfaction that the agency had erred in its original analysis of the maximum feasible level of average fuel economy achievable within the leadtime available from the issuance of the original final rule. A complete discussion of the technical basis for this decision is contained in the agency's Rulemaking Support Paper, copies of which are available from the individual listed as the "information contact" at the beginning of this notice.

EXPLANATION OF DECISION

(a) *Reduction in engine displacement and drive ratios.* In establishing 1980 and 1981 standards in March 1978, the agency projected that the manufacturers could make reductions in the product of average engine displacement and final drive ratio (CID x N/V) of approximately 10 percent, in addition to an amount made possible as vehicle weight is reduced (keeping vehicle performance relatively constant). In Chrysler's case, such a change was estimated to amount to a 16 percent reduction in CID x N/V, producing a fuel economy gain of about 1.1 mpg for 4X2's. In the case of 4X4's, a 16.4 percent reduction was projected, for a 0.92 mpg benefit in fuel economy. These reductions were greater than those projected by Chrysler in the last rulemaking by a large amount, but the agency concluded that there was no reason to believe that Chrysler could not achieve performance levels commensurate with those of the other manufacturers. See Rulemaking Support Paper Supplement (RSPS) for the 1980-81 rulemaking, page III-163-6.

In its petition and related submissions, Chrysler has provided information from which the agency calculated Chrysler's planned reductions in CID x N/V for model year 1981. These reductions appear to closely approximate the reductions projected by the agency in the last rulemaking (within about 1 percent). However, the agency's previous projections of CID x N/V levels for Chrysler in 1981 and Chrysler's current planned levels are not directly comparable, since Chrysler's planned values include the effect of rerating about 10 percent of its truck fleet (principally those with the

highest CID and axle ratios) over the 8500-pound GVWR dividing line, an effect not considered in the 1980-81 rulemaking. Therefore, the agency attempted to determine whether Chrysler's planned reductions in CID x N/V for 1981 were in fact the maximum feasible reductions, as required by the Act. In the 1980-81 rulemaking, the extent to which reductions in engine displacement or drive ratios could be implemented were determined to be limited by (a) minimum truck performance criteria (e.g., ability to pull a load up a steep grade), (b) emission problems with extremely low performance levels, (c) technical factors, which may produce diminishing fuel economy returns beyond some level of CID x N/V reductions, and (d) market acceptability of trucks with lower acceleration characteristics, notwithstanding the ability of the truck to meet minimum functional requirements. See, e.g., DN-82, Att. II (GM).

A comparison of Chrysler's planned 1981 levels to those of the other manufacturers indicates that GM and Ford project CID x N/V levels approximately 5 percent lower than Chrysler for both 4X2's and 4X4's, even though Chrysler's trucks are lighter than their competitors'. The Center for Auto Safety argues that Chrysler should be able to offset this discrepancy between their performance levels and their competitors. DN-90, p. 6.¹ The agency asked Chrysler why such reductions could not be made, and Chrysler responded that, according to their marketing experts, severe marketing problems would be encountered at lower CID x N/V levels than those planned. DN-190. For each manufacturer, the CID x N/V product is governed by the available engines, transmissions (e.g., overdrive) and axle ratios. Given the mix of engines produced by Chrysler, the agency believes that they face a greater marketing risk from performance reduction than do their competitors. The Chrysler

¹ The abbreviation "DN" followed by a number refers to the docket number of material in NHTSA docket FE-77-05-N06. This docket is located in Room 5108 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C., and is open to the public during normal business hours. References to the materials in the docket and other materials are intended as an aid to persons dealing with the voluminous materials in this rulemaking, and may not be exhaustive.

fleet is powered by 360, 318, and 225 cubic inch engines. Given the very large gap between the 318 and the 225, Chrysler's ability to shift consumers to the 225 from the 318, the key to any performance reduction, faces them with the very distinct possibility of losing customers to competitors with a more complete range of engines or, to competitors with engines smaller than their 318 but larger than their 225.

Although the agency (or anyone else for that matter) cannot quantify with certainty the magnitude of the marketing risk faced by Chrysler in attempting to make CID x N/V reductions greater than those it now plans, the agency is particularly concerned about the potential impacts on Chrysler's economic position of taking such marketing actions. At a time when its competitors are earning record profits, Chrysler has faced steady financial losses. Further, Chrysler's truck sales (particularly vans and other two-wheel drive light trucks) have been one of its more profitable operations, and erosion of its competitive position in that market segment could be especially harmful to that company. While GM and Ford face marketing risks in reducing the average CID x N/V of their truck fleets, the impacts of an erroneous marketing judgment by those companies on their long term financial viability is certainly far less than in the case of Chrysler. Therefore, the agency has adopted Chrysler's planned reductions in CID x N/V for its two-wheel drive fleet for this rulemaking.

The case for Chrysler's 4X4 fleet is somewhat different; however, Chrysler's own projection of its CID x N/V reductions for 1981 indicate that it expected to encounter a shift in its engine offerings (either through its own marketing efforts or through other changes in customer preference) resulting in an *increase* in the sales of its largest engine at the expense of its intermediate displacement engine. The agency recognizes that this projection was made prior to recent gasoline shortages, which has resulted in a serious drop in the demand for large trucks and engines. Now, the agency doubts that Chrysler could effectuate this adverse mix shift without encountering sales resistance, even if the promotion of the sale of fuel inefficient trucks were consistent with the law. Faced with the

current trend in the automobile and light truck market, the agency cannot accept Chrysler's unsupported projection of an engine mix shift toward larger displacement engines. By holding its engine mix constant for 4X4's (which may prove to be a conservative assumption) and by making minor axle ratio reductions consistent with those planned by the larger manufacturers, Chrysler should be able to make fuel economy improvements beyond those it projected in its petition and equivalent to those projected by the agency in the original 1980-81 rulemaking.

Chrysler also objected to the agency's projected benefit from a given level of CID x N/V reduction. DN-93, p. 12. Chrysler projected a lesser benefit for these reductions, based on an analysis of specific axle ratio changes or engine substitutions. The agency attempted to resolve this issue through a variety of methods, including an assessment of the effect of different axle ratios and engines on Chrysler's current fleet. These analyses indicate that the higher benefit for CID x N/V reductions projected by NHTSA in the original rulemaking on the 1980-81 standards is valid or even conservative. EPA's analysis showed a higher benefit for engine displacement reductions than did NHTSA's but a lower benefit for axle ratio reductions. The agency did not rely on EPA's analysis of the effect of N/V reductions on fuel economy, since that analysis was based solely on passenger car data (reflecting generally lower N/V values). DN-169. GM information also supports the agency's conclusion on this point. DN-81, p. 4. Therefore, the agency has used the same relationship between CID x N/V reductions and fuel economy improvements for the analysis of the Chrysler petition that it used in the original rulemaking. However, because of the lower CID x N/V reductions now projected, the agency is reducing its projected fuel economy gain for Chrysler in this area by 0.4 mpg for 4X2's and is retaining its projection for 4X4's, for the reasons mentioned above.

The agency has also reduced its projection for fuel economy gains from CID x N/V reductions in the case of AM's 4X4 fleet (the bulk of that company's production). In the 1980-81 rulemaking, the agency projected that AM could improve its fuel economy by 0.7 mpg through

making reductions in the same range of relative magnitude as the other manufacturers, but AM now indicates that it plans no reductions. Although AM indicated in August 1977 that it planned to make CID x N/V reductions of approximately the magnitude projected by the agency in the last rulemaking, it now indicates that such reductions should be made over the course of 3 to 4 years, to permit truck purchasers to become acclimated to the resulting decrease in vehicle acceleration capability. Even accepting AM's argument for the need of a phase-in period, making *no* CID x N/V reductions between 1979 and 1981 could not be justified as the maximum feasible fuel economy improvement on their part. If AM makes only half the CID x N/V reductions the agency projected (and AM previously planned) in the 1980-81 rulemaking, it could still comply with the existing 4X4 standard for 1981. AM in fact expects to be able to comply with that standard. AM's zero CID x N/V reduction estimate is also well out of line with the estimates of the rest of the manufacturers. Therefore, the agency concludes that AM can make fuel economy improvements of at least 0.3 mpg through reducing average engine displacement or drive ratios for its 4X4 light trucks, enough to permit it to reach the current standard for 1981.

(b) *Engine efficiency improvements.* In previous rulemakings, the agency has, for analytical purposes, considered the related areas of efficiency improvements (i.e., mechanical improvements), optimization of engine calibrations (i.e., those controlling spark advance, exhaust gas recirculation rate, air-to-fuel ratio) and improvements in emission control systems as a single class of technological improvements. In the case of Chrysler in the last rulemaking proceeding, the agency projected that through a combination of these measures, any adverse impacts associated with more stringent emission standards for 1979 could be offset, and a net improvement of 2.4 percent for 4X2's and 1.4 percent for 4X4's could result. This conclusion was based upon earlier development testing of 1979 vehicles which showed a 3 percent emission standard related fuel economy penalty and Chrysler's own projection that it could achieve fuel economy gains of 5.4 and 4.4 percent for 4X2's and

4X4's respectively through a combination of engine efficiency improvements. Prior to the proposal of the 1981 standards in December 1977, Chrysler had provided even more optimistic projections of engine efficiency improvements, which the agency relied upon in proposing standards. See 43 FR 12001. Chrysler's most recent estimates indicate that it is continuing to pursue the same engine efficiency improvements identified in the last rulemaking proceeding, but is not obtaining the expected benefits because of unanticipated development problems with the various individual changes.

Much of Chrysler's currently projected engine improvement is categorized as undefined task, i.e., no specific means are identified for achieving the projected gain. The agency is adopting Chrysler's revised estimate of engine efficiency improvements, since it appears to reflect the maximum feasible gains in fuel economy.

The agency is also revising downward its estimates of feasible engine efficiency improvements for the other manufacturers. In the previous rulemaking, NHTSA projected that American Motors (AM) and Ford could offset the effect of more stringent emission standards through a combination of engine efficiency improvements, changes to emission control systems and calibration optimization, and that GM could offset the penalty and obtain a net improvement of 2 percent for both 4X2's and 4X4's. The projection for GM was based on their submission in the prior rulemaking, and was confirmed by GM on two separate occasions, most recently in December 1978. DN-29, p. 3. GM now claims that it was necessary to incorporate the above-mentioned improvements to achieve MY 1979 emissions certification and that a penalty still exists. The projection for AM was based upon their submission in the original rulemaking which stated that their estimate of the maximum engine efficiency improvements available would be 4 to 5.5 percent for their 4X4's. AM claims that they never intended to imply that the improvement could be obtained by 1981, only that it could eventually be achieved. In the case of Ford, that company's submission in the last rulemaking showed through "engine mapping" analyses that the emission penalty could be reduced to approximately 1 percent with optimal engine calibra-

tions (which may require electronic controls) and that certain additional engine efficiency improvements were possible. See 43 FR 12001. The agency found that electronic controls might not be feasible for light trucks by MY 1981 due to inadequate leadtime to implement the full development and production of the required software.

In its January 17, 1979, submission on the Chrysler petition, GM indicated that the agency should revise its position on the question of engine efficiency/optimization changes. DN-82, p. 2. GM subsequently clarified their position, indicating that they were revising their earlier statements that the emission standards penalty could be offset. DN-207. GM indicated that the change in position was due to the fact that their 1979 trucks suffered more than they had anticipated due to the change in emission standards. However, GM had already obtained data on their 1979 truck fleet at the time they confirmed their original position on this question in December 1978. The agency also notes that GM apparently had significant difficulty certifying their 1979 truck fleet for emission compliance, and "last-minute" changes to those trucks were required to permit certification. Ford stated that its engine calibrations are much closer to optimal than in previous years when emission standards changed, due to improvements in Ford's technical capability, but that approximately 1 percent fuel economy improvement is projected by 1981 due to calibration optimization. DN-91, p. 7.

Based on this information, the agency is projecting that GM can achieve a 2 percent fuel economy improvement (from its 1979 levels) due to calibration improvements, engine efficiency improvements, and improvements in emission control systems. This improvement is based on the fact that other manufacturers are projecting fuel economy improvements for engine improvement programs like the ones GM is engaging in (see Rulemaking Support Paper (RSP), section III. A), the difficulties GM had in certifying their trucks for emission purposes in 1979, and the historical trend for improved engine efficiency after the first year in which emission standards are made more stringent (see, e.g., Chrysler's comment on this point, DN-93, p. 5). In the case of Ford, the agency is adopt-

ing a 0.2 mpg improvement based on the above Ford reference and other confidential information. These results are 0.3 to 0.4 mpg lower than the projections in the 1980-81 rulemaking for both GM and Ford. The agency is also adopting Chrysler's reduced estimate of engine efficiency improvements, reducing their fuel economy improvement capability by 0.2 to 0.3 mpg. In the case of AM, the agency is eliminating the previously projected 5 percent improvement in fuel economy due to engine modifications (resulting in a 0.7 mpg decrease in average fuel economy). Although the agency is still of the view that a substantial potential for engine efficiency improvements exists for AM's engines, it is not clear that AM possesses the technical capability to implement these improvements by 1981. While the larger domestic manufacturers have either already implemented improvements in this category or plan to do so by 1981, AM's technical resources to make these improvements are quite small in comparison to GM, Ford, and even Chrysler. It should also be noted that giving AM the benefit of the doubt on this question has no effect on the level established for the 1981 4X4 standard, since AM projects being able to meet the current standard.

(c) *Weight reduction.* In the 1980-81 rulemaking, the agency projected that the light truck manufacturers could reduce the weights of their vehicles by amounts ranging from approximately 225 to 450 pounds. These conclusions were based upon the agency's own analysis of light-weight material substitution opportunities available to the vehicle manufacturers, responses to special orders issued to numerous suppliers of vehicle components and materials, and the manufacturers' own weight reduction plans.

Based on their responses to the notice on the Chrysler petition, it appears that the manufacturers are currently projecting slightly less weight reduction than did the agency in the 1980-81 rulemaking. Chrysler submitted information explaining why it had reduced its weight reduction projections from those provided in the earlier rulemaking. AM has effected weight reduction since the existing standards were established. This has improved the fuel economy of their 4X4 fleet as reflected in the MY 79 data. Beyond MY 79, the new EPA procedures, i.e.,

new test weights and new truckline definition, offset the weight reduction benefits expected between MY 79-81, according to AM. Consequently, AM expects no fuel economy benefit from weight reduction between 1979 and 1981 for its 4X4 fleet (all its commercially available trucks). Ford projects test weight reduction of under 150 pounds by 1981, despite the fact that it will be introducing a new pickup truck in 1980. GM provided information on its new 1981 model year pickup truck, but the agency is unable to determine the exact magnitude of the weight reduction achieved. GM did provide information on the fuel economy improvement the new truck could be expected to achieve, but that improvement was due to several factors in addition to lower weight.

The agency is projecting reduced benefits for weight reduction for Chrysler. In the case of Chrysler's 4X2 fleet, the largest part of the reduction is due to the change in the agency's regression equation. In particular, the agency has determined that, for purposes of predicting fuel economy for light trucks, revisions should be made to the regression equation used by the agency to determine the effect on fuel economy of changes in axle or gear ratios, engine displacement, and weight. The new regression equation is based on more extensive fuel economy data for light trucks, which became available for the first time in 1979. It predicts lesser benefits for a given degree of weight reduction than did the previously used equation, and greater benefits for axle ratio and/or engine displacement reductions. In addition, the new equation includes a factor for changes in aerodynamic/rolling resistance characteristics. The inclusion of this factor makes the new equation more consistent with current fuel economy test procedures, which base certain dynamometer settings on these characteristics, while the previous procedures relied solely on vehicle weight. In this analysis of the Chrysler petition, the new equation's reduced benefit for weight reduction has been used, accounting for a portion of the reduction in standard established in this notice. A further description of the new regression equation is contained in the agency's Rulemaking Support Paper on this proceeding. The final projected weight reduction benefit for 4X2's

agrees with the benefit projected by Chrysler when adjusted for changes in EPA test procedures.

In the case of 4X4's, the situation for Chrysler is essentially the same as in the 4X2 case. The projected weight reduction is slightly less than estimated by the agency in the 80-81 rulemaking; however, the benefits are reduced significantly (by 0.3 mpg) primarily because of changes in the agency's regression equation.

For both GM and Ford, the agency is projecting reduced fuel economy benefits (of about 0.3 mpg) from weight reduction for MY 1981, compared to the last rulemaking. While Ford and GM are reducing weight to levels approximating those projected by the agency in the original rulemaking, the use of the agency's new regression equation results in reduced fuel economy benefits. In addition, refinements to the weight simulation used by EPA for fuel economy testing are now expected to reduce previously projected improvements in *measured* fuel economy (naturally, on-the-road improvements are unaffected). Although these refinements make testing more accurate, their effect on measured fuel economy must be accounted for. The agency has also adopted AM's weight reduction plan, reducing their fuel economy improvement capability by 0.3 mpg.

(d) *Possible errors in NHTSA baseline or larger than anticipated effects of changes to emission standards and test procedures.* When the original 1980-81 standards were established, the agency lacked substantial fuel economy data for light trucks in the 6001-8500 pound GVWR range. The reason for the absence of these data was that those trucks were not yet tested for emissions by EPA in a manner which yields fuel economy data. Therefore, the agency used available data (primarily for trucks under 6000 pounds GVWR) and its regression equation to project fuel economy data for the entire 0-8500 pound GVWR fleet. This extrapolation permitted the agency to develop a starting point or "baseline" from which to project future fuel economy improvements for standard-setting purposes. A more complete description of this methodology is contained in Section II of the Rulemaking Support Paper for this petition.

The agency now has EPA-approved MY 1979 fuel economy data for light trucks in the 6001–8500 pound GVWR range. Using this data, the agency has attempted to determine the accuracy of the baseline used to set the existing standards. The first step in that process was to account for known changes that occurred between MY 1977 and MY 1979. Thus, the final NHTSA model year 1977 baseline fuel economy for each manufacturer (see RSP-S, Page III-19) must be reduced by 3 percent, the agency's estimate of the fuel economy penalty due to the stricter MY 1979 emission standards. Also, those baselines must then be increased by the known improvements which have been made since MY 1977. Finally, an adjustment must be made for differences between the 1977 and 1979 production mixes of the manufacturers. As a result, given no other changes, the adjusted final MY 1977 baseline should be identical to the MY 1979 baseline derived from the MY 1979 certification data. This is, however, not the case.

The 1977 and 1979 baselines, when adjusted as described above, are not consistent for a combination of reasons. One factor is that the trucks in the 6001–8500 pound GVWR range (for which fuel economy data were extrapolated from the under-6000 pound GVWR fleet) are inherently somewhat different from the lighter trucks and that the agency's extrapolation procedure therefore produced small errors. Another factor is that changes in the 1979 emissions standards and test procedures produced effects on individual manufacturers' fleets which were slightly different in magnitude than the agency-predicted effects. Another factor is random error, due to variation in results produced by the fuel economy test procedures and the relatively small number (statistically speaking) of actual tests conducted for 1979.

The agency has decided to use the 1979 certification data to construct a baseline to determine the fuel economy benefits that will be achieved through the manufacturers implementing the balance of their fuel economy improvements for MY 1981. This decision was based on the availability of actual fuel economy data instead of the partially estimated data used in the last rulemaking and on the shift in agency position on the question of whether the emissions

standards penalty would be completely offset by MY 1981. In the 1980–81 rulemaking, the agency used a baseline that did not include such a penalty and assumed that any emission standards-related penalty encountered subsequent to MY 1977 could be overcome by MY 1981. The agency now believes that the penalty will not be overcome totally by the 1981 model year. Therefore, the agency is using the new 1979 baseline which reflects that penalty.

The effect of switching to the 1979 baseline is to alter the baselines for the manufacturers. In the case of AM's 4X4 fleet, the use of the 1979 baseline increases the agency's projection of that company's ability to improve fuel economy by 0.2 mpg. In the case of Chrysler's 4X2 fleet and GM's 4X4 fleet, the effect on fuel economy of this decision is negligible. In all other cases, the decision to use the 1979 baseline for this analysis reduces the agency's fuel economy estimates. This effect is in the range of a 0.3 to 0.4 mpg decrease in fuel economy for Chrysler's 4X4 fleet and GM's 4X2 fleet, and approximately a full mpg decrease for both Ford's 4X2 and 4X4 fleet.

(e) *Aerodynamic and rolling resistance reductions.* The agency projected a 0.35 mpg fuel economy improvement for Chrysler's 4x4 trucks in 1981 due to improvements in aerodynamic characteristics and the use of radial tires. This improvement was based on Chrysler's own estimate submitted in the 1980–81 rulemaking. In its petition, Chrysler claims that this improvement is no longer attainable. Chrysler is of the view that the physical improvements can be made, but that the changes will not be reflected on current EPA test procedures. These improvements would show up on the EPA test only if Chrysler could use the optional "coast-down" procedure for determining dynamometer roadload horsepower. The coast-down procedure would be used by Chrysler if its 4X4 trucks could achieve aerodynamic and rolling resistance characteristics superior to the tabulated values established by EPA.

Chrysler indicates that many of the 4x4's sold will be equipped with off-road tires and that the EPA will require testing with such tires. Unless radial tires are used on the test, the improvements attributable to both aerodynamics and

reduced rolling resistance do not show up, according to Chrysler. However, the agency notes that Chrysler's largest competitors project being able to sell a high enough percentage of radial tires on their 4X4 light trucks to permit all 4X4 fuel economy test vehicles to employ radial tires. Recognizing that the use of radial tires on vehicles intended for off-road use may involve some compromises in vehicle utility, the agency nevertheless concludes that Chrysler's difficulties in promoting the sale of radial tires on 4X4 trucks should be no greater than their larger competitors and that the fuel economy benefits warrant such sale. Therefore, the agency projects that Chrysler can sell enough radial tires on its 4X4 trucks in 1981 to obtain the fuel economy benefit it and the agency projected in the 1980-81 rulemaking for aerodynamic and rolling resistance improvements.

(f) *Mix shifts.* The Center for Auto Safety has argued that Chrysler could use marketing strategies to shift its sales mix toward more efficient vehicles, and thereby improve its average fuel economy. DN-90, p. 7. The Center concludes that such a shift is consistent with the law and with the trend toward greater use of trucks for personal (i.e., non-commercial) reasons. The Automobile Owner's Action Council conducted a survey of Chrysler's truck advertising and concluded that the advertising was oriented toward the sale of powerful trucks and toward the sale of trucks as "toys" and as car substitutes. DN-106, p. 3 and attachment. The agency agrees that basing fuel economy standards on the maximum feasible use of marketing measures to promote the sale of fuel efficient vehicles is entirely consistent with the law, at least to the extent such shifts can be accomplished without causing major reductions in sales.

In the case of Chrysler's 4X2 trucks, the original 1981 standard-setting analysis was based on an apparent adverse mix shift from the 1976 sales mix used in the NPRM, to the projected 1979 mix supplied by Chrysler, in early 1978. (An adverse mix shift is one which reduces fuel economy.) The effect of this assumption was to reduce Chrysler's projected average fuel economy by 0.2 mpg. In its petition, Chrysler provided sales mix information which the agency

concludes reflects a further adverse mix shift between 1976 and 1979 having a fuel economy effect of about the same magnitude.

The agency is using Chrysler's latest mix projection for 1979 as the basis for the revised 1981 standard. This has the effect of reducing Chrysler's projected capability to increase fuel economy of 4X2's by 0.2 mpg.

The adverse mix shift impact is not necessarily like shifting from a large vehicle to a small vehicle. The impact here results in part because more Chrysler trucks are being sold with options like air conditioners, step bumpers, etc. These come in a package with a large engine, i.e., the 360 rather than the 318 or the 318 rather than the 225. Although Chrysler did eliminate the two largest engines it had available, the 400 and the 440, the net result of all these changes is a slight reduction in fuel economy. It is important to note that the relative proportion of Chrysler trucks sold with various accessories is still below the general level of accessory sales by the industry. Manufacturers' limits on sales of options such as step bumpers do not help fuel efficiency to a great extent because the resultant weight reductions and attendant fuel economy benefits are relatively small. The major option is air conditioning, and its control in a fleet where air conditioning is not as prevalent as it is in the fleets of other manufacturers might tend to drive customers to the competition. As noted in section (a) of this notice, the agency is very reluctant to place Chrysler in a position where it might be compelled to face major marketing risks in order to comply with the light truck fuel economy standards.

(g) *Revision to EPA's "car line" definition for light trucks.* Under EPA's fuel economy test procedures, test vehicles must be equipped with all optional equipment which is expected to appear on more than 33 percent of the trucks within that "car line." A car line was previously defined by EPA very broadly, with all vans constituting a single car line, for example. Thus, many vehicles equipped with options in production were not represented in fuel economy testing by test vehicles having those options. For the 1980 model year, EPA proposes

to revise the definition of "car line" to narrow that definition to better assure that vehicles are tested with the options they will have when sold. The proposal is supported by this agency. Chrysler argues that this change will result in reduced fuel economy caused by additional equipment being applied to more of its fleet, thereby reducing average fuel economy.

In the original 1980-81 rulemaking, the agency rejected the manufacturers' arguments claiming that this penalty was unavoidable and permanent, on the ground that the manufacturers could reallocate their offerings (i.e., sell more options on car lines which already exceed the 33 percent criterion and restrict options on the other car lines to less than 33 percent) to offset this penalty. In this rulemaking, this conclusion was universally disputed. Industry sales data indicate that a long-term trend toward higher sales of optional equipment is continuing, making option restriction quite difficult. Ford claimed to know of no method to restrict the option sales, and indicated that attempting to restrict those sales might even produce an adverse fuel economy impact. DN-91, p. 11. Ford provided a breakdown of its option sales by truck line, which showed that the vast majority of the newly created truck lines would be tested at higher weights than the previous truck lines. EPA conceded that due to the option equipment sales trends, option restriction was not a viable alternative for counteracting the effect of the new definition. DN-169, p. 2. The "penalty" appears to be as much a symptom of the trend toward higher sales of optional equipment as it is a result of changes in EPA's regulations, and is, therefore, permanent.² Thus, the agency is adopting the manufacturers' projected impacts of the 1980 test procedure change.

² The EPA procedures change would not actually reduce fuel economy. It would correct the error caused by using data from vehicles tested without options to represent trucks that actually are sold with options. This causes a decrease in measured fuel economy, not on-the-road fuel economy, since the new procedure will apply data with options to more of the manufacturer's product line. Increasing the number of production vehicles equipped with options naturally decreases both on-the-road and measured fuel economy. Both effects must be considered in the agency's analysis.

(h) *Lubricants*. In the 1980-81 rulemaking, the Agency projected that a fuel economy improvement of 3 percent is achievable through the use of improved lubricants (i.e., friction modified, lower viscosity, synthetic base, or some combination of these methods). Two percent of this improvement was attributed to the use of advanced crankcase lubricants, such as versions of the recently marketed ARCO Graphite, Exxon Uniflo, Mobil, and other similar lubricants. The remaining 1 percent of the improvement was attributed to changes in rear axle lubricants. However, the use of the improved crankcase lubricants is not currently permitted by EPA in that agency's fuel economy testing. That agency has indicated that, before approval is granted for the use of these lubricants in fuel economy testing, it must have evidence indicating that consumers will actually purchase and use these oils in the replacement market. The type of evidence EPA seeks includes information showing that the selling price of the new oils will be competitive with regular lubricants, that the oils will have widespread availability in the marketplace, and that a generic definition of the oils is developed, so that the vehicle manufacturers can specify in owner's manuals that the new oils must be used.

The basis for the agency's conclusion as to the magnitude of the fuel economy benefit resulting from use of the improved crankcase lubricants is set forth in the preamble to the final rule in the 1980-81 rulemaking. 43 FR 12004-5. Data submitted by Exxon, ARCO, and Mobil Oil companies tended to support an improvement figure in the 4 to 5 percent range. More limited data from the vehicle manufacturers generally tended to support fuel economy improvements of 1 to 3 percent. Data from Mobil and GM tended to support a fuel economy improvement in the range of 1 percent for improved axle lubricants. Ford's data tended to support a fuel economy improvement in the range of 1 percent for manual transmission lubricants. All told, the agency concluded that an improvement of 2 percent for crankcase oils and 1 percent for axle/transmission lubricants is reasonable. However, to encourage further testing of these lubricants and to avoid the necessity of attempting to predict how EPA would

ultimately decide the approval question discussed in the previous paragraph, the 1981 standards were established at alternate levels, contingent on this approval.

Only limited additional information was submitted on the lubricants issue in this proceeding. Chrysler's recommendation that the lubricant improvement be deleted from NHTSA's analysis was based on Chrysler's conclusion that EPA would not approve the use of the lubricants (DN-10, P. 2) and tests of four cars using the Exxon oil, which showed fuel economy benefit from that oil declining with increasing vehicle mileage. DN-13, Att.L. All Chrysler's earlier data showed an improvement for the advanced oils of about 1 to 3 percent. Ford echoed the concern over the likelihood of EPA approval of the lubricants, and noted that its own test program showed only 0.5 percent improvement for these lubricants (DN-91, p. 8), down from the 12 percent projected in the 1980-81 rulemaking. GM has apparently not changed its plan to delay use of friction modified oils until after 1981, and continues to rely on lower oil viscosity to improve fuel economy. Problems were reported by GM in the areas of increased oil consumption and catalyst deterioration, due to the use of low viscosity lubricants. DN-82, p. 3.

The oil companies expressed a range of opinions on this issue, but no additional data. Texaco noted that the percent fuel economy improvement achievable with the new lubricants will vary depending on the friction characteristics of the oil currently used by the vehicle manufacturer, and asserted that their currently sold crankcase oil provides just as good fuel economy as at least one of the advanced lubricants, in on-the-road testing. DN 25. Chevron stated that the agency's projected 2 percent benefit for new crankcase oils is "on the high side," and projected a lesser benefit of 1 to 1.5 percent. Chevron also found a 1 percent fuel economy benefit for axle lubricants, but anticipated that these lubricants would not be widely available by 1981. Cities Service measured a 2.6 percent benefit for their advanced crankcase oil, but also noted that the benefit obtained depends on the base oil used. That company also indicated that it would begin marketing their advanced oil by

1980, and predicted that the necessary approval criteria for fuel economy testing could be met by the January 1, 1980, deadline. DN-149. Sun Oil Company projected an improvement of 2-3 percent for the crankcase oils (DN-150), while Shell's testing of other company's products led it to estimate a 0-2 percent improvement. DN-176. Shell predicted that the EPA approval process and all necessary oil company certification of the oils would not be completed prior to 1982. ARCO reaffirmed its prior statements to the agency, that "significant improvements" in fuel economy are possible with these oils. DN-151.

Against this background (including the more voluminous information submitted as part of the 1980-81 rulemaking), the agency has concluded that the estimated fuel economy benefit for improved lubricants should not be revised. The vast majority of data submitted by the oil companies support the 2 percent crankcase oil improvement or a greater improvement. Most of the data submitted by the manufacturers prior to the consideration of Chrysler's petition tended to support that figure. Limited additional support for the axle lubricant improvement projected was received from the oil companies, as well. Recent information submitted by the vehicle manufacturers (principally Chrysler and Ford) is relatively limited. The decision to maintain the original lubricant projection is also supported by a contract study performed for NHTSA by the Coordinating Research Council. See DN-187.

With respect to the question of whether all necessary criteria for EPA approval of the lubricants can be satisfied, NHTSA notes that progress is being made toward ultimate approval, and it is premature to speculate that the process cannot be completed in a timely manner. In the NPRM on the Chrysler petition, the agency stated that it was strongly inclined to wait until the January 1, 1980, deadline for EPA approval of these lubricants for fuel economy testing rather than concluding that use of the lubricants will not be approved and removing the lubricant projection from its standard setting analysis now. See 43 FR 58841. The manufacturers should base their fuel economy planning on the assumption that the standards for 1981 will be

in effect at the levels which reflect the inclusion of lubricants; those are the standards in effect with the publication of this rule, and those standards will remain in effect unless EPA's approval is not granted.

(i) *Other reductions.* Another problem which Chrysler argues has reduced its 4X2 fuel economy improvement capability relates to reduced automatic transmission parasitic losses. The use of a light duty, more efficient transmission to accomplish this improvement was not included in the agency's projections which formed the basis for the original 1981 standard, but was included in Chrysler's petition. Although Chrysler was apparently confident that this item could be applied by the 1981 model year at the time it filed its petition, it no longer is sure of success. On April 9, 1979, Chrysler, citing manufacturing and durability problems encountered in testing of the more efficient transmission, stated:

Presently, there is approximately a 50 percent probability that we will be successful in meeting the production date. If we are successful, we are confident the estimated improvement will be realized on the fleet.

DN-188, p. 2. In its December 6, 1978, submission Chrysler had projected a 1981 introduction of this technology, producing a 0.16 mpg fuel economy benefit.

The contradictory information places the agency in a difficult position to determine maximum feasible fuel economy improvements. Here, as elsewhere, Chrysler has reported development problems of one sort or another. However, the substantiation of those problems is often sketchy. Nevertheless, the current substantial uncertainty about the prospects for success leads the agency to be conservative. Therefore, the agency is not including this transmission improvement in projecting Chrysler's capability for MY 1981.

The agency has deleted its projection in the 1980-81 rulemaking that AM could employ a new, 4X4 transfer case in its fleet. This deletion lowers the agency's projection of AM's fuel economy improvement capability for 1981 by 0.2 mpg. NHTSA has deleted this item because of uncertainty as to whether the resulting gain from the use of a new transfer case would show up on fuel economy tests.

The agency's projection of Ford's fuel economy improvement capability has decreased by about .2 mpg for 4X2's and .5 mpg for 4X4's due to our changed assessment of Ford's ability to make improvements to automatic transmissions. All of the 4X2 reduction and about half of the 4X4 reduction is due to the elimination of the projected use of lock-up torque converters by 1981. The agency projected that the leadtime was adequate to accomplish this improvement by the 1981 model year, but Ford indicates that it plans to implement lockup torque converters after that date. The remainder of the 4X4 reduction is due to changes in Ford's planned usage of overdrive automatic transmissions in that portion of its fleet.

Selecting the Standards

On the basis of the above-described information from AM, Chrysler, Ford and GM, the agency has reassessed their fuel economy improvement potential for the 1981 model year as follows:

	4x2	4x4
AM -----	25.6	15.5
Chrysler -----	17.2	15.5
Ford -----	17.4 ³	15.5
GM -----	17.2	15.8

The agency has not reassessed the capabilities of the other manufacturers (e.g., Nissan, Toyo Kogyo, Volkswagen, etc.) since only Toyota commented on the proposal. The absence of comments from most foreign manufacturers has been typical of all of the agency's other fuel economy rulemaking and results from those manufacturer's capabilities being well above the standard. The same is true in this rulemaking. See 43 FR 12012.

The values in the above table reflect the agency's judgment of the maximum levels of average fuel economy that the major domestic manufacturers can achieve without having to undertake measures involving substantial marketing risk. As indicated below, the agency concluded in this case that the additional difficulties involved with these measures would out-

³ Ford's own projection is 17.6 mpg, with minimal benefits from lubricant.

weigh the slight additional fuel economy improvements they would make possible.

The agency also notes that there are often substantial uncertainties present in any rule-making like the present one in which the government must project future capabilities in an industry to develop and implement technological innovations. For example, the agency projections of technological improvements for MY 81 include undefined spark ignition engine improvements for Chrysler and GM, benefits from improved manual transmissions for GM although they project none, and greater benefits from the use of automatic overdrive transmissions than Ford projects. Improvements beyond those projected by the agency may be possible in such areas as automatic transmissions parasitic loss reduction, engine efficiency improvements, mix shifts, and engine displacement/axle ratio reductions. The agency is unable to quantify the uncertainty associated with these improvements. In this type of situation, agencies are required to compare the harm which is likely to result from erring either on the side of too stringent or too lenient standards. *International Harvester Co. v. Ruckelshaus*, 478 F.2d 615 (D.C. Cir 1973). The same type of balancing is required under the Act to determine at which point within the range of fuel economy improvement capabilities of the various manufacturers standards should be set. See Senate Report 94-516, at pages 154-5. The potential harm from setting too stringent 4X2 standards was found to be the liability of the manufacturers for civil penalties (as high as \$40 per truck produced in the case of Chrysler in the current rulemaking, i.e., achieving a CAFE of 17.2 mpg instead of 18.0) or the possibility of a decline in sales if a manufacturer attempts to restrict product availability while his competitors can sell a more complete line of vehicles. The amount of any civil penalty liability could be reduced by the Secretary of Transportation in a variety of circumstances, such as when the liability is due to certain circumstances outside the manufacturer's control or where payment of the full penalty would produce insolvency, bankruptcy, or a substantial lessening of competition within the truck market. In the case of the 4X4 standard, all the manufacturers are projected to be capable of

achieving compliance with the existing 15.5 mpg standard with relatively low risk (although the risk for Chrysler may well be greater than for GM and Ford), so these concerns do not apply to the same extent to 4X4 vehicles.

In the case of the 4X2 standard, the risks associated with maintaining the standard at 18 mpg are substantially greater and are faced by all the companies. The 0.8 mpg shortfalls faced by Chrysler and GM could be offset only through significant market restrictions, based on the agency's analysis. Given the magnitude of the risk involved, those companies might well decide to simply pay the resulting \$40 per truck civil penalties. In that case, maintaining the 18 mpg standard would not produce any additional petroleum conservation.

The benefits to the nation for Chrysler and the other manufacturers to meet the existing 4X2 standard of 18 mpg rather than a standard of 17.2 mpg are the approximately 710 million additional gallons of gasoline saved over the lifetime (128,000 miles) of the 1981 model year trucks. The agency considers that potential energy savings to be significant. However, the risks associated with maintaining the previously established standard has led the agency to decide to reduce the 4X2 standard to 17.2 mpg, the maximum achievable levels projected for GM and Chrysler. Since we project none of the major domestic 4X2 manufacturers to be able to meet the 18 mpg standard with only moderate risk, the agency cannot conclude that maintaining that standard would necessarily produce any additional energy savings. Should the manufacturers attempt to meet the 18 mpg standard through product restrictions, those actions would appear to involve substantial risk, due to the substantial fuel economy shortfalls involved. Because of the commercial uses for which many of these vehicles are applied, any marketing action which affected the trucks' utility in a substantially adverse manner could directly affect sales levels, and thereby industry profitability and employment.

A point made by the Department of Energy, and supported by EPA (DN-169) and the Center for Auto Safety (DN-90), is that standards should not be keyed to the "least capable" manufacturer, given the civil penalty/credit

mechanism in the law and Conference Report language which indicates that "industry-wide" considerations must be taken into account. See 43 FR 58841, December 18, 1978 (the proposed rule in this proceeding). GM, on the other hand, argues that fuel economy standards must be set at levels achievable by all. DN-82, Att. III. Chrysler argues that the issue of the "least capable manufacturer" is irrelevant, since the problems raised by that company are industry-wide, not just a problem facing one company. DN-93, p. 1. The agency has repeatedly stated in past rulemaking economy standards need not be set at the maximum achievable fuel economy level of the "least capable" manufacturer. In the case of the 4X2 standard, the agency's analysis demonstrated no single "least capable" manufacturer, with all the major domestic manufacturers falling within a very narrow fuel economy range and a majority of the domestic fleet (GM and Chrysler) being projected at the same level, 17.2 mpg. Thus, the "least capable" manufacturer issue is not implicated with respect to the 4X2 standard. Nor is the issue implicated with respect to the 4X4 standard, since that standard could not be set at a higher level at this time, due to the 18-month leadtime rule of section 502(f) of the Act.

Therefore, the agency is reducing the 1981 model year light truck fuel economy standard for 4X2's to 17.2 mpg, but is denying Chrysler's request to lower the 4X4 standard.

Other comments and impacts of this decision

The comments of the Department of Energy are of special significance in NHTSA's fuel economy rulemaking, given its statutory role. Under sections 502(h) and (i) of the Act, NHTSA must consult with DOE in carrying out fuel economy related responsibilities, and must provide DOE with advance notice and an opportunity to comment prior to issuing any proposed or final standards. In the case of proposed standards, NHTSA is required to discuss any "unaccommodated" comments of DOE in the Federal Register notice. Since NHTSA did not propose specific standards in this proceeding, but rather issued a "description of the subject and issues involved" within the meaning of 5 U.S.C. 533(b)(3), it is appropriate to address DOE's comments in this notice.

DOE is concerned that a decision to reduce the light truck fuel economy standards constitutes a very unfortunate lost energy conservation opportunity, the significance of which is magnified by the "large and *growing* demand for light duty trucks, increasing cost of imported oil and pressure that a revision of the 1981 standards could also lead to lower standards in later years." DN-95, p. 1. NHTSA believes that the energy loss resulting from this decision is outweighed by the risks faced by the vehicle manufacturers, consistent with the statutory requirements that standards be set at the maximum feasible level.

In particular, DOE is concerned that this decision may establish a precedent that standards will be reduced every time a manufacturer's technology development program encounters a problem, thereby eliminating "any effective forward looking standard setting activity by DOT." *Supra*, p.2. Several of the agency's reduced fuel economy improvement projections have been revised to conform with manufacturers' plans, but only to reflect more recent information about capability. To the extent these development problems cannot be overcome by the model year in which the standards will apply, these problems limit the fuel economy improvement capability of the manufacturers, and, therefore, limit the levels at which standards can be set. These levels reflect the agency's current assessment of the maximum feasible fuel economy for each manufacturer, based on the leadtime from the issuance of the original 1981 standards. The agency does not intend to allow every minor development program problem encountered by the manufacturers to trigger a favorable consideration of a petition to reduce fuel economy standards, but that is not the case here as the problems are industry-wide.

DOE also argues that a revision to the fuel economy standards at this late date will penalize those manufacturers which have made plans and expended resources to meet the previous standards. The record of this proceeding indicates a similarity of capability of the various major domestic manufacturers. Judging by the comments of Ford and GM, those companies are facing the same type of problems that Chrysler confronts and will not be able to achieve fuel

economy levels significantly higher than Chrysler's. Indeed, Ford and GM support a reduction in the standards.

The Notice published by the agency concerning this petition (43 FR 58840) raised the question of the effect of a reassessment of the model year 1981 standards on the standard for limited product line light trucks. In the response to that notice, the only manufacturer subject to that standard, International Harvester, said that its 1979 projected corporate average fuel economy is 12.6 mpg or 1.4 mpg below the MY 1980 standard. DN-86. IH added that it expected "a considerable increase in fuel economy due to exhaust emission calibrations optimization in MY 1980." Since MY 1979 is the first year since the early 1970's that IH has had to comply with light duty truck emissions standards, the agency agrees with IH that substantial improvements are likely. IH has testified before Congress that it expects to meet the current 1980 and 1981 fuel economy standards. Therefore, the agency has not revised the limited product line standard.

Manufacturers have informed the agency that one of the methods they plan to use to improve the fuel economy of the currently regulated fleet of 0-8500 pounds GVWR is the rerating of vehicles above 8500 pounds GVWR. These actions do not contribute to fuel savings for the Nation. For this reason, the agency intends to monitor closely the manufacturers' production and marketing plans to determine the actual extent of this shifting beyond 8500 GVWR. These activities may lead to a determination by the agency to set fuel economy standards for such vehicles after model year 1981.

The environmental impacts of this decision are discussed in the Environmental Impact Statement prepared in conjunction with the establishment of the original 1981 standards. Copies of that document are available from the individual listed as the "information contact" at the beginning of this notice. The agency has concluded that a complete revised environmental impact statement need not be prepared for this proceeding, since the original document considered the impacts of a range of standards which encompasses both the original decision and the decision announced herein. The most sig-

nificant environmental impact associated with this decision is the additional petroleum consumption, with attendant increases in petroleum production, transportation, refining, and transfer related environmental impacts. If the existing model year 1981 standards are not changed, the agency projects a savings of 2.85 billion gallons of gasoline, compared to the 1980 standard. The standards established herein will save 2.14 billion gallons.

In consideration of the foregoing, 49 CFR Chapter V is amended by changing the title of Part 533 to "Light Truck Fuel Economy Standards" and by revising the 1981 model year standards set forth in the table in section 533.5(a) as follows:

533.5 Requirements

(a)	* * *					
Model	2-wheel drive		4-wheel drive		Limited	
Year	light trucks		light trucks		product line	
	Captive		Captive		light trucks	
	Imports	Other	Imports	Other		
1979	—	17.2	—	15.8	—	
1980	16.0	16.0	14.0	14.0	14.0	
1981	17.2*	17.2*	15.5*	15.5*	15.0*	

* These standards are 0.5 mile per gallon less if, by January 1, 1980, the Environmental Protection Agency has not fully approved improved lubricants for use in fuel economy testing.

A Final Regulatory Analysis of the economic consequences of this decision has been prepared in accordance with section 10.f of the Department's Procedures for Improving Government Regulations, 44 FR 11034 *et seq.* This analysis considered a range of fuel economy standards between the existing standards and those requested by Chrysler. The establishment of 17.2 mpg as the fuel economy standards for 4X2 vehicles decreases gasoline savings by 0.7 billion gallons over the life of the 1981 fleet. Compared to the 1980 standards, the revised 1981 standards will save about 2 billion gallons of gasoline, at a cost of \$153 million in capital investment and \$49 per vehicle retail price increase. Consumers will achieve a net savings of \$255 per vehicle as a result of the 1981 standards (compared to the 1980 standards). Copies of this analysis are available from NHTSA's Office of Plans

and Programs, Room 5212 of the Nassif Building, Washington, D.C. 20590.

Issued on June 20, 1979.

(Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); Sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2002); delegation of authority at 41 FR 25015, June 22, 1976 and 43 FR 8525, March 2, 1978)

Joan Claybrook
Administrator

44 F.R. 36975
June 25, 1979

PREAMBLE TO AN AMENDMENT TO PART 533—LIGHT TRUCK AVERAGE FUEL ECONOMY STANDARDS

Standards for 1982 Model Year

(Docket No. FE 78-01; Notice 2)

ACTION: Final Rule.

SUMMARY: This notice establishes fuel economy standards for model year 1982 light trucks. The establishment of these standards is required by section 502(b) of the Motor Vehicle Information and Cost Savings Act. These standards are intended to result in the savings of 1.2 billion gallons of gasoline over the life of the 1982 light truck fleet, compared to the consumption which would have occurred if fuel economy remained at the levels of the 1981 standards.

DATES: These standards are applicable for the 1982 model year.

FOR FURTHER INFORMATION CONTACT:

Mr. Francis J. Turpin, Office of Automotive Fuel Economy Standards (NRM-21), National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-472-6902)

SUPPLEMENTARY INFORMATION: In December 1975, following the Arab oil embargo of 1973, substantial increases in the price of imported petroleum, and a recognition of the nation's vulnerability to interruptions of supply and rapid increases in the price of foreign oil, the Congress passed the Energy Policy and Conservation Act. That law added a new Title V to the Motor Vehicle Information and Cost Savings Act ("the Act"), authorizing a number of federal initiatives to improve automotive fuel efficiency.

Section 502(b) of the Act requires the Secretary of Transportation to issue average fuel economy standards for light trucks beginning with the 1979 model year. That provision requires that standards

be set at the maximum feasible average fuel economy level, considering technological feasibility, economic practicability, the effects of other federal standards on fuel economy, and the need of the nation to conserve energy. That provision also requires that standards be established at least 18 months prior to the start of the model year to which they apply. To date, standards have been established through the 1981 model year. On December 31, 1979, in 44 FR 77199, the National Highway Traffic Safety Administration ("NHTSA" or "the agency"), which was delegated authority to administer the fuel economy program, proposed the issuance of light truck standards for model years 1982-85. These standards would apply to light trucks with gross vehicle weight ratings (GVWR) of up to 8500 pounds, curb weights of less than 6000 pounds, and frontal areas less than 45 square feet. This class of vehicles includes most standard pickup trucks, vans, and utility vehicles which are used for personal or light duty commercial applications.

This notice establishes standards for the 1982 model year only. Due to the imminence of the date specified in the law for establishment of the 1982 standards and to the complexity of the marketing and other issues involved in the later model years, standards for the 1983-85 model years will be established at a later date. The 1982 standards are 18 mpg for two-wheel drive light trucks and 16 mpg for four-wheel drive light trucks.

The basis for the proposed standards is set forth in the preamble to the December 31 notice of proposed rulemaking (NPRM), the agency's rulemaking support paper (RSP), and the agency's regulatory analysis, copies of which are available from the individual listed as the "information contact" at the beginning of this notice. These

standards are based upon information obtained in past rulemakings, the Department's own research activities, information submitted by the manufacturers in response to a July 1978 NHTSA questionnaire and a July 1979 special order, and other information. In general, the proposed 1982 standards are based primarily on the projected use of "add-on" technology such as radial tires, improved accessories, automatic transmissions with lock-up torque converters, and overdrive manual transmissions. Items requiring longer lead times, such as the introduction of compact pickup truck models and new engines were not included in the proposal for 1982 for most manufacturers, but were considered in three alternative analyses discussed in the agency's rulemaking support paper.

The fuel economy levels of 17.4 mpg for two-wheel drive (4×2) light trucks and 15.6 mpg for four-wheel drive (4×4) light trucks set forth in the NPRM were determined to be achievable by the "least capable manufacturer" with relatively minor difficulty, and were based on the agency's then current assessment of that manufacturer's capability. The NPRM noted that the final 1982 standards might be established at other higher or lower levels, depending on the comments received and the degree to which standards would be keyed to the least capable manufacturer. The proposed standards were generally consistent with levels of fuel economy which the manufacturers planned to meet, due to market demands and the anticipated establishment of fuel economy standards for that year. However, in most cases the proposed standards did not reflect such fuel economy improvement actions as reduction of average engine displacement or axle ratio below 1981 levels, or some feasible new model introductions.

The only comments received on the NPRM with respect to the 1982 standards came from the five domestic manufacturers of light trucks, the Center for Auto Safety, and Purolator Courier Corporation. With one exception, Chrysler Corporation, none of the manufacturers claimed to be unable to meet the proposed 1982 standards, and several apparently plan to exceed them by substantial margins. (As noted in greater detail later in this notice, the plans of the manufacturers and confidential information available to the agency place all of the manufacturers, except Chrysler, above the final standards too.) Since

filing its comments on the proposal, Chrysler's position has changed. In its March 1980 special order response, that company revised its projections upward and indicated that it now plans to exceed the proposed 4×2 standard and to closely approach the 4×4 proposal. In general, the manufacturers took exception to certain of the details of the agency's analysis for 1982, but did not claim that the agency had overstated substantially their achievable fuel economy levels for that year.

It should be noted that the levels of fuel economy projected in the proposal understated the actual fuel economy improvement capability for some companies due to limitations discussed above and the agency's policy of not including the fuel economy benefits from usage of diesel engines until the questions relating to the possible adverse health effects of diesel engine emissions are more fully resolved. The EPA has recently issued diesel particulate standards, and they will not preclude the use of diesel engines in light trucks for the 1982 model year. However, only two manufacturers plan to rely significantly on diesel engine usage for 1982, GM and IH, and the increased fuel economy levels which the agency would project based on those plans would not change the balancing process by which the agency arrives at final standards. Therefore, the agency has not included diesel engines in its 1982 fuel economy analysis, but may do so for the 1983-85 final rule, as mentioned in the NPRM. See 44 FR 77204.

The main issues raised in the comments on the 1982 standards involve the applicability of the standards, and in particular whether captive import light trucks may be included in average fuel economy calculations and whether the agency can and should establish a separate class of light trucks and a separate fuel economy standard to accommodate manufacturers such as Chrysler and IH, which claim to need special consideration. The latter issue will be discussed at the end of this notice, in conjunction with selecting the levels of the 1982 standards.

A. *Inclusion of captive imports.* Section 503(b)(1) of the Act provides that when a manufacturer both produces passenger automobiles in the United States and imports passenger automobiles, those two groups of vehicles are to be treated as if manufactured by separate manufacturers for fuel economy standards compliance purposes. The

purpose of this provision is to remove any incentive the domestic manufacturers might have to comply with fuel economy standards by merely importing more small foreign-produced automobiles, thereby decreasing employment in the U.S. industry. See Congressional Record, p. H5383 (daily edition, June 12, 1975). Although the law does not specify procedures for calculating light truck average fuel economy, the legislative history states that a similar computation (including "special rules for imports") should be established as was done in the statute for passenger automobiles. See House Report 94-340 (94th Cong., 1st Sess. (1975), 91). In establishing standards for 1980-81 model year light trucks, the agency used its classification authority under section 502(b) to require separate compliance of captive import and other light trucks after the 1979 model year. See 43 FR 11995, March 23, 1978.

Four of the domestic manufacturers commented on the issue of inclusion of captive import light trucks in model years after 1981. GM argued that the law *compels* NHTSA to require separate compliance of domestic and captive import light trucks. This position is based upon the language in the House Report relating to a "similar computation" for light truck average fuel economy as was done statutorily for passenger automobiles. GM argues that this position is further supported by Congress' making the definition of the term "domestically manufactured" in section 503(b)(2)(E) apply to both passenger automobiles and light trucks. That term is the key definition for purposes of requiring separate compliance of imported and domestic vehicles, and could have been limited in application to passenger automobiles had Congress so intended. Ford also favored requiring separate compliance for import and domestic light trucks, but argued that if imports are permitted to be included in the average fuel economy calculation for some manufacturers, they must be includable for all. International Harvester favored permitting the inclusion of captive imports, but only if a higher fuel economy standard were set for companies which did so. Chrysler favored permitting the inclusion of up to 80,000 captive import light trucks in a manufacturer's average fuel economy calculation, and argued that the agency has authority to permit this.

One argument raised by Chrysler to support the inclusion of captive imports is that this step would raise the average fuel economy of its domestic fleet relative to the levels achieved by Ford's and GM's domestic fleets. (Inclusion of the captive imports would also increase the agency's assessment of Chrysler's ability to improve its domestic average fuel economy and might lead to the setting of higher standards than would be set were the captive imports excluded. Chrysler would still have the lowest projected fuel economy of all companies, however.) However, the agency remains of the view that the separate compliance requirement for domestic and captive import light trucks has a countervailing positive impact, in encouraging the domestic manufacturers to produce small trucks in the U.S. and thereby increase U.S. industry employment. Once this investment is made, the companies will have a stronger incentive to promote the sale of these more fuel efficient vehicles, thereby reducing gasoline consumption. Domestic production of small trucks will also improve the U.S. trade balance by capturing sales which would otherwise go to the importers.

Chrysler also argued that permitting it to include captive imports in its CAFE would enable it to "test the market" for smaller, more fuel efficient types of vehicles. The agency's original decision to require separate compliance of captive import and other light trucks does not preclude Chrysler or other manufacturers from continuing to test the small truck market with imports, to determine if demand for such vehicles is adequate to support minimum feasible domestic production volumes. However, the agency doubts that additional evidence is needed to convince a manufacturer that a market exists for these vehicles. In fact, Chrysler, in an October 17, 1979, submission to the Treasury Department relating to its loan guarantee, projects that small pickup trucks will account for 23 percent of the light truck market in the early 1980's. Sales of compact Japanese pickup trucks increased 39 percent from 1978 to 1979, to 465,000 units, despite a general decline of over 15 percent in total light truck sales. The compact pickup trucks were the only segment of the truck market to register a sales increase. Given the nearly universally accepted predictions of future gas price increases and possible shortages, the market for compact, fuel efficient light trucks

seems assured. The other domestic light truck manufacturers apparently agree with the agency's conclusion that the market is sufficient to support the sale of these trucks, given their plans to begin production in the next few model years.

The agency remains convinced that the separate treatment of captive import and domestic light trucks is the position most consistent with the legislative mandate to develop similar average fuel economy calculation procedures for light trucks as for passenger automobiles. Therefore, this final rule makes no change in the current requirement for separation of foreign and domestic light truck fleets.

B. Technical issues. Several rather minor objections were raised with respect to the agency's technical analysis of 1982 fuel economy improvement capability. All issues are discussed in greater detail in the agency's rulemaking support paper, copies of which are available from the individual listed as the "information contact" at the beginning of this notice.

The first issue involves the baseline used to project 1982 fuel economy levels. For the NPRM, the agency used as the baseline its prior analysis of achievable 1981 fuel economy levels from the rulemaking proceeding to reconsider that year's standards (44 FR 36975, June 25, 1979). That analysis was in turn based upon 1979 sales mix and fuel economy test data. Only IH commented on the question of whether 1980 mix and test data should be used as a baseline to the extent that information becomes available. IH supported the use of 1980 test data, but cautioned that the 1980 sales data might be unrepresentative due to market fluctuations. A shift in the light truck mix apparently occurred between early 1979 and the present time, with lighter trucks and smaller engines accounting for a larger portion of total sales. Although the agency is not revising its baseline estimates of average fuel economy, the standards established herein do reflect the changes in the truck market which occurred after the start of the 1979 model year, as discussed below.

Both AM and IH argued that the 1981 *standards* should be the baseline for projecting 1982 fuel economy levels, and that the only additional technology which should be considered by the agency is that which could be added for the 1982 model year. This approach would ignore any technology which was used by manufacturers to

voluntarily *exceed* the 1981 standards, and would therefore inaccurately measure 1982 maximum feasible fuel economy levels. For the NPRM, the agency did include improvements by two manufacturers (Ford and GM) which raised their capabilities beyond the 1981 standards. Thus, the agency has rejected this suggestion, due to its inconsistency with the legal requirements that standards be established at maximum feasible levels.

The agency also requested comment on its current policy of not including in standard-setting analyses the fuel economy benefits from diesel engines, pending resolution of various diesel-emission-related questions by EPA. All the manufacturers (but for AM, which did not address the issue) supported the continuation of this policy, which has the potential effect of reducing the level of standards which are set. Ford also suggested that the policy be extended to its planned PROCO engine. With respect to the diesel issue, the agency is continuing its current policy for the reasons discussed above. The PROCO issue has no direct bearing on the 1982 standards in any case, since the PROCO engine would not be available until some later model year. Ford's comment will be addressed in the 1983-85 final rule.

IH also objected to the agency's methodology of assuming that if diesels were not available to that company, consumers would purchase the most efficient alternative gasoline engine available, a four-cylinder engine in IH's case. In fact, the agency substituted a combination of 4- and 8-cylinder engines for the diesels, not solely the 4-cylinder engines. However, the agency is of the view that the 4-cylinder engine is the closest substitute to the diesel in terms of acceleration performance and fuel economy, as discussed in the rulemaking support paper.

Several objections were raised with respect to the agency's projections of various transmission improvements. However, none of these objections were accompanied by test data or supporting analysis. Therefore, the agency has not revised its analysis with respect to potential transmission usage. Additional discussion on transmission improvements is contained in the agency's rulemaking support paper.

Ford objected to the fuel economy benefit from improved accessories projected by the agency.

However, since Ford's statement did not indicate that such improvements were not feasible or provide any supporting data, the agency has not revised its projection used in the NPRM. Chrysler also differed with the agency's projection (and its own past estimates) of accessory improvements. No substantiating data for this change of position was provided, and the agency sees no reason why at least a portion of the originally projected improvement cannot be achieved by Chrysler. Although Chrysler pointed out that tests of one proposed technique provided no benefit, the agency considers it likely that other techniques may still provide a portion of the benefit.

Chrysler also objected to the agency's estimate and reduced its own previous estimate of the fuel economy benefit it could obtain from aerodynamic improvements for 4x2 light trucks. However, Chrysler provided no data or analysis in support of its claim, beyond stating that only one previously proposed improvement had proven acceptable within the constraints of cost, engineering and styling. Also, Chrysler's current estimate of the relationship between reductions in aerodynamic drag and fuel economy improvements is much lower than both the agency's estimates and those of the other manufacturers. Accordingly, the agency cannot accept Chrysler's unsupported assertion in this area.

Chrysler has also changed its position on feasible weight reduction for 1982. The agency had previously projected a very small improvement in this area (a reduction from projections made in the original 1981 standard-setting proceeding). Since Chrysler provided no basis to conclude that NHTSA's projected weight reduction is not feasible, the agency is retaining its original estimate.

Ford, GM, and Chrysler all objected to the agency's projection of a 1 percent fuel economy benefit from improved axle and manual transmission lubricants for 1982. GM and Ford projected lower benefits than did the agency, and GM and Chrysler indicated that additional time would be needed to complete the necessary durability testing. The agency recognizes that the precise level of benefits has not been finally established, but believes that its projections are substantially correct. The agency recognizes too that durability is a matter that the manufacturers must address. However, except for Chrysler, the

manufacturers' arguments were not supported by any new information and are the same arguments considered and rejected by the agency in the past proceedings on 1980-81 light truck standards and the reconsideration of the 1981 standards. GM's and Chrysler's comments discuss lower viscosity rear axle lubricants only and do not discuss the benefits from the use of synthetic base or friction modified axle lubricants. Ford has tested the friction modified lubricants and apparently has not encountered any durability problems. In the absence of data or information in support of these arguments, the agency is retaining its 1 percent axle lubricant projection, but not including this benefit for Chrysler until 1983.

The manufacturers also objected to the agency's projection of a 3 percent fuel economy improvement for 1982 from the use of electronic engine control systems. Some manufacturers apparently assumed that the agency's projections were limited to systems for fully interactive electronic control of spark advance, air-to-fuel ratio, and exhaust gas recirculation rate. This was not the case, since, as was pointed out in the Support Paper for the NPRM, the agency was projecting the use of a variety of electronic controls which differ in sophistication. The primary basis for this projection was that electronic controls (not necessarily fully-interactive electronic controls) would be used on 1981 model year passenger cars. In the 1980-81 proposal on light trucks (42 FR 63184; December 15, 1977), the agency projected that these controls could be applied to 1981 model year light trucks. The agency did not assume the use of controls in setting the final 1981 standards due to possible lead time problems in fully developing and reproducing the necessary software. Now some manufacturers are arguing that lead time does not exist to apply electronic controls to the 1982 light truck fleet, and even if it were done, no fuel economy benefit would result. Again, those arguments are based primarily on 3-way catalyst systems.

The agency rejects the lead time argument put forth by GM because the agency did not restrict its MY 1982 projections to 3-way catalyst systems and there has been sufficient lead time for large manufacturers such as GM and Ford to develop electronic control systems. Indeed, GM is intending to use a Knock Limiter System. Further,

both Chrysler and Ford will be using some form of electronic controls on certain applications in MY 1982. Several sources in the Support Paper for the NPRM substantiate the agency's position of average fuel economy benefits of from 3 to 5 percent for electronic controls in various forms as does later information submitted by one manufacturer. Although some data submitted by the manufacturers showed no fuel economy improvement from specific electronic subsystems in particular applications, the agency is retaining its original estimate of 3 percent as a reasonable estimate of the average improvement in fuel economy.

Ford and Chrysler objected to the agency's estimate of fuel economy benefits available from reducing engine displacement or total drive ratio ($CID \times N/V$). Ford objected to the $CID \times N/V$ reductions projected in one alternative case in the rulemaking support paper, but that was not the reduction upon which the 1982 proposal was based. The agency believes that Ford can meet the standards established herein without making $CID \times N/V$ reductions beyond those planned. Chrysler, however, projects that for 1981 it will sell engines with *larger* average displacement, and consequently poorer fuel economy, than in 1980. The mix gets even worse for 1982. The agency cannot accept Chrysler's 1982 projection for purposes of setting standards. Against a background of current rapid gas price increases, uncertainties over Mideast oil supplies, and record sales of small imported automobiles, neither the agency nor Chrysler's domestic competitors views the market as being consistent with Chrysler's forecasts. Even if Chrysler were correct in its forecast, that company provided no information bearing on its ability to use marketing measures to promote the sale of smaller engines. However, the agency is accepting Chrysler's projected shift for 1980-81, which is based on certain sales dislocations being carried over from 1979. Overall, the agency is retaining its original estimate of $CID \times N/V$ reductions for Chrysler.

In the NPRM, the agency discussed a base case for making fuel economy improvements in 1982-85. It also set forth three alternative cases for achieving higher fuel economy levels, by introducing additional compact truck models,

major performance reductions, and eliminating many of the higher payload trucks. With respect to the "new model" case, the Center for Auto Safety objected to the fuel economy values projected by the agency for compact pickup truck and van models. Specifically, the Center argues that the new domestic models projected by the agency would still be larger than and have poorer fuel economy than imported light trucks, and would be unable to successfully compete with the imports in these times of increased demand for high fuel efficiency. According to the Center, the result of producing such vehicles would be further loss of sales to the imports, increased unemployment in the domestic industry, and a waste of capital due to the need to downsize these trucks again. The agency is concerned about the issue of new model attributes, but the issue raised relates to the 1983-85 standards because of the inadequate lead time to change 1982 designs. The agency will consider this question more fully for the final rule on 1983-85 standards.

C. Economic practicability. None of the manufacturers raised any specific objections with respect to the agency's analysis of the costs associated with compliance with the 1982 standards. Since the agency's projections of 1982 fuel economy improvements are no more stringent than the actions planned by the manufacturers to meet current market demand for greater fuel efficiency, the additional costs imposed by the 1982 standards are speculative. For that reason, the agency has continued to determine the costs and benefits of improving fuel economy to the levels required by our standards, regardless of the motivation for making those improvements.

IH raised two general economic issues. First, it requested that the agency conduct cash flow analyses for AM and IH as had been done for the larger domestic manufacturers. The 1982 model year capital investment required of these two companies, which rely extensively on suppliers for major components, is quite small. This makes cash flow a much less critical consideration for those companies than for the "Big Three." Further, IH's light truck production is a very small portion of that company's business. Thus, IH's light truck expenditures have a relatively small impact on its

cash flow. Second, IH argued that the agency consider the costs associated with fuel economy standards compliance, but which do not involve product changes. Apparently, IH is referring to the costs associated with commenting on proposed standards, responding to questionnaires and special orders for NHTSA, and submitting reports to the government. IH states that these costs are insignificant for the larger manufacturers, but important for companies having a much smaller share of the market, like IH. However, IH provided no cost information to support their argument.

D. *Effects of other federal standards.* Two manufacturers addressed the issue of the effect of 1982 safety standard amendments on fuel economy. GM argued that the changes to Standard 204 (relating to steering column rearward displacement) would require structural reinforcement to its vans, adding 40 pounds additional weight. IH, on the other hand, estimated no adverse impact for its light truck fleet due to changes in safety requirements. The agency estimates that 40 pounds added to GM vans, if actually required, would have a negligibly small impact on measured fuel economy and no effect on its compliance with the 1982 standards.

E. *Need of the nation to conserve energy.*

None of the manufacturers took exception to the agency's discussion of the need of the nation to conserve energy, as set forth in the NPRM, rulemaking support paper, and preliminary regulatory analysis. Events continue to bear out the conclusion expressed by the agency in each standard-setting proceeding to date, that the need of the nation to conserve energy is so great as to require the establishment of the most stringent feasible fuel economy standards.

F. *Setting the 1982 standards.* Based on comments received on the agency's NPRM, no significant revisions are required to the detailed technology usage projections which formed the basis for the proposed standards. However, due to rapid shifts in the light truck market and to corresponding changes in manufacturers' product plans, the estimates made by the agency in December no longer appear valid. For example, Chrysler recently submitted a response to an agency special order which projected 1982 fuel economy levels of 17.7 mpg for 4 × 2's and 15.3 mpg for 4 × 4's 0.5 to 0.6 mpg above the levels it

told NHTSA were its maximum feasible levels less than two months ago. Based on the plans of the various manufacturers to substantially change current trucks and on other information available to the agency, the fuel economy levels achievable with no more than moderate risk for the 1982 model year are as follows:

	4 × 2	4 × 4
American Motors	—	16-17
Chrysler	17.7	15.3
Ford	18-19	16-17
General Motors	18-19	16-17
International Harvester ...	—	17.1

The precise planned fuel economy levels of some of the manufacturers have been claimed to be confidential by some of the companies.

The reason for these higher levels is that some manufacturers plan (in response to the rapidly shifting market) to take certain actions to improve fuel economy beyond those actions projected by the agency for the proposed standards. Also, some of these numbers include the benefits of diesel engines, which the agency did not include in its analysis. These additional actions either became more firmly established after the issuance of the NPRM, or were discussed in manufacturers' special order responses but were not fully integrated into the agency's proposal due to the short period of time between the receipt of special order responses and issuance of the NPRM.

Because of the rapid changes in the truck market, with fuel efficiency playing a much greater role in consumers' purchasing decisions, it appears that the manufacturers' fuel economy improvement plans for 1982 are a more accurate indicator of the "maximum feasible average fuel economy" for that year than are the agency's projections in the NPRM. Given the limited lead time remaining until the beginning of the 1982 model year and the substantial economic uncertainties facing the manufacturers and the national economy, the agency is relying primarily on the manufacturers' planned fuel economy levels in setting final 1982 standards. The final standards are also quite consistent with the fuel economy levels projected in the alternative cases in the agency's rulemaking support paper.

The Act's legislative history provides guidance on the establishment of fuel economy standards in a situation like this one, in which one manufacturer has lower projected fuel economy than the rest of

the industry. The Conference Report on the Act provides guidance in this regard as follows:

The conference substitute lists a number of factors the Secretary shall consider in determining maximum feasible average fuel economy Such determination should take industrywide considerations into account. For example, a determination of maximum feasible average fuel economy should not be keyed to the single manufacturer which might have the most difficulty achieving a given level of average fuel economy. Rather, the Secretary must weigh the benefits to the nation of a higher average fuel economy standard against the difficulties of individual automobile manufacturers. Such difficulties, however, should be given appropriate weight in setting the standard in light of the small number of domestic automobile manufacturers that currently exist, and the possible implications for the national economy and for reduced competition association (sic) with a severe strain on any manufacturer. However, it should also be noted that provision has been made for granting relief from penalties under Section 508(b) in situations where competition will suffer significantly if penalties are imposed.

Senate Report 94-340, 94th Cong., 1st Sess. (1975), at 154-5. Thus, the Secretary is required to balance the benefits to the nation of setting fuel economy standards at some level above that projected to be achievable with minimal risk by the "least capable" manufacturer against the resulting harm to that manufacturer and to industry competition.

The main benefit from setting higher fuel economy standards is the additional petroleum savings which would result, or at least the greater certainty that these savings will be realized. This benefit is limited by feasibility constraints, since some levels of fuel economy either cannot be achieved or, more likely, could be achieved only at a risk perceived by the manufacturers to be so great that they would elect to pay civil penalties for failing to meet the standards rather than comply. This possibility of setting fuel economy standards which do not produce the anticipated savings is remote (but for Chrysler) if standards are set at levels at least up to 18 mpg for 4 × 2's and 16 mpg for 4 × 4's. Over the fuel economy ranges which the manufacturers are able to achieve for 1982, each 0.1 mpg of additional average fuel economy for the industry (including both classes of trucks) produces additional gas savings of approximately 130 million gallons over the life of the affected vehicles.

Setting standards at levels which can more readily be achieved by the least capable manufacturer could result in the loss of gasoline savings which a higher standard would produce. In other words, standards set at a level which Chrysler can readily achieve would be below the maximum level which the other manufacturers can meet, and the other manufacturers could choose to just meet the lower standards instead of achieving the higher fuel economy levels they are capable of meeting. It has been argued by some manufacturers that market forces would not permit any manufacturer to produce vehicles of less than maximum fuel economy. However, the concept of "maximum fuel economy" is one upon which the agency and some of the manufacturers would disagree. There is no certainty that the manufacturers would maintain their planned 1982 fuel economy improvements if the fuel economy standards provided that latitude. In the unlikely event that setting 1982 standards well below GM's and Ford's capability (and below that of AM and IH in the case of 4 × 4's) did not result in lower energy conservation in 1982, it could have that effect in a later year. The setting of such standards would enable those companies to earn large 1982 credits and thus possibly reduce the incentive for additional fuel economy improvements in a later year. The fact that Ford, in its comments on the NPRM, stated that its 1982 planned fuel economy levels had been reduced from levels reported to the agency in September 1979 is evidence that current plans are not absolutely fixed, and that lower fuel economy levels are a definite possibility.

The agency is also directed to consider the possible competitive harm which would occur if standards were set at a level above which a manufacturer could meet with low risk. This harm could result from either the payment of civil penalties (and any resulting adverse publicity) or the taking of drastic actions to comply with the standards. With respect to the payment of civil penalties, the Secretary may waive penalties if the Federal Trade Commission certified that the payment of such penalties would produce a "substantial lessening of competition." Given Chrysler's situation as one of the three major domestic light truck producers and its current financial troubles, it is likely that such a finding would be made and potential penalties waived. More to the point, Chrysler will earn enough credits in 1981 to eliminate any civil penalties for the majority of its trucks, the 4 × 2's. Credits carried over for its 4 × 4 fleet would reduce the maximum civil penalty

liability to about 2 million dollars. Given the public's awareness of Chrysler's problems, the small magnitude of the potential penalties, and the possibility that Chrysler might meet the standards, the agency discounts the adverse publicity factor.

The remaining risk to be considered is the potential harm resulting from a manufacturer taking extraordinary actions to meet the standard and either producing vehicles which are not accepted in the market or incurring expenses which it cannot meet. Given the magnitude of the potential civil penalty liability for Chrysler of \$35 per 4 × 4 truck and the possibility that any penalty would be waived, it is inconceivable that company would take any actions to comply with the standards which might have serious adverse economic consequences for it.

Further, the possibility remains that Chrysler may be able to achieve 1982 average fuel economy levels of 18 mpg for 4 × 2's and 16 mpg for 4 × 4's. If Chrysler took such actions as further increasing the efficiency of its engines, reducing its average engine displacement by changing the mix of the vehicles sold, or instituting additional lightweight material substitutions, it may be able to comply with these standards.

The agency concludes that the energy savings benefits associated with setting standards at levels of 18 mpg for 4 × 2's and 16 mpg for 4 × 4's outweigh the rather speculative harm to Chrysler of such standards. Therefore, after balancing the factors required by the law, the agency is establishing final standards of 18 mpg for 4 × 2's and 16 mpg for 4 × 4's.

Commenters on the NPRM raised two issues which directly relate to the balancing process and selection of final standards. First, IH and Chrysler both argued that standards *should* be set at levels, readily achievable by the least capable manufacturer, and the Center for Auto Safety opposed such a process. IH argued that the adverse publicity associated with violating the standards would be very damaging to the "least capable manufacturer." The standards established herein can be met by IH, based on that company's current product plan, as described in its response to the agency's July 1979 special order. In Chrysler's case, the public is already aware of that company's current financial difficulties and should not draw additional adverse conclusions based on its possible failure to comply, particularly if civil penalties are

offset by credits or waived. In any case, the potential loss in fuel savings resulting from setting standards at a level which Chrysler readily could meet outweighs any of the speculative effects on that company.

The second argument, which was also supported by IH and Chrysler but opposed by GM, Ford, and the Center for Auto Safety, involves the use of the agency's authority under section 502(b) of the Act to set separate class fuel economy standards for companies with particular problems. IH argued that it needs such special treatment. However, based on its own plan and the agency's projections, it can comply with the standards established herein. With respect to the Chrysler situation, both GM and Ford argue that the agency lacks the authority to establish such a classification. Both manufacturers argue that the Act requires that standards apply equally to all manufacturers, and that the agency's authority to set standards for different classes applies to classes of *vehicles*, not of manufacturers. The Center for Auto Safety argues that the mechanism in the law for payment of moderate civil penalties for noncompliance and for reduction or elimination of those penalties in cases of need should be the sole method for dealing with the problems of the least capable manufacturer. Ford also argues that separate standards for different companies competing in the same market segment provides a competitive advantage to the company subject to the less stringent standard.

The agency has in the past used its classification authority to promote maximum fuel savings while still not placing undue burdens on particular manufacturers. For example, the separate 4 × 4 standard was established to account for American Motors, whose fleet is predominantly the less fuel efficient four wheel drive vehicles. The "limited product line" standard was established to provide a two year transition period for IH to gain experience with complying with more stringent emission standards, which were applied to that company's light trucks for the first time in 1979.

With respect to IH, the two year period expires in 1981, and all indications are that IH has been able to improve its ability to meet more stringent emission standards without loss of fuel economy. The fuel economy of IH's 4 × 4 fleet for 1982 is on a par with that of the other manufacturers' 4 × 4 fleets, so the agency is not granting IH's request to

extend the applicability of that company's special class. IH argued that a separate class is needed to allow for the possibility that it might offer 4 × 2 versions of its Scout vehicle in 1982. In recent years, the sales of these 4 × 2 derivatives of the standard 4 × 4 Scout have been at very low levels, dropping to under 300 units in 1979. In a September 13, 1979, letter to the agency, IH indicated that the Scout is available "only in four-wheel drive." In any case, given the low volumes involved, the availability of diesel engines to raise 4 × 2 fuel economy, and the existence of carry-over credits if 4 × 2 Scouts continue to be sold, the agency sees no need to perpetuate the special class for IH. However, since IH and AM will still have fleets which are at least predominantly four wheel drive, the agency deems it necessary to extend the separate class for that type of vehicle. See 42 FR 63192-3, December 19, 1977.

Without deciding the question of whether the agency has the authority to set a separate standard for Chrysler but recognizing that serious questions exist in that regard, the agency deems it appropriate to employ other statutory mechanisms in dealing with that company's problems. Chrysler competes in the same market segments as GM and Ford, and the various truck models offered by those three companies are remarkably similar. There is no inherent technical reason why Chrysler's light trucks cannot achieve the same levels of fuel economy as the other companies. The agency does not seek to minimize the magnitude of the *economic* difficulties which confront Chrysler. However, the agency is concerned that the establishment of differential fuel economy standards for fleets of vehicles which are nearly identical on a model-for-model basis could have an anticompetitive effect. Congress considered the conflict between standards which require maximum fuel economy improvements and the inevitable differences in capabilities of the affected manufacturers, and developed the enforcement mechanism in section 508 of the Act (involving modest civil penalties for noncompliance, offsetting monetary credits, and waivers of penalties in certain instances) to deal with the situation. Therefore, the agency is not establishing a separate class and fuel economy standard for Chrysler.

G. Miscellaneous comments. AM raised two procedural issues in regard to the 1982 standards. First, it argued that the agency failed to comply with the requirement in section 502 (b) of the Act that standards be issued 18 months prior to the start of the model year to which they apply. In AM's case, its 1982 production period will begin in July 1981, and 18 months prior to that date would be January 1980. As the agency noted in response to the same comment made by AM with respect to the 1980 standard, there is no single start of a model year for all companies in the industry (43 FR 11995; March 23, 1978). Production begins as early as July (or even earlier in some cases such as with the GM X-body cars) and as late as December for some foreign manufacturers. However, the agency has endeavored to provide approximately 18 months leadtime for the industry as a whole. Even for domestic companies with early-starting model years, these standards are established 18 months prior to the introduction for sale of the 1982 models. Further, lead time should not be a problem for AM with respect to the 1982 standard, since its current product plan would lead it to exceed the standards promulgated herein.

AM also objected to the brief 30 day comment period provided with respect to the 1982 standard. This short comment period was necessitated by the statutory deadline for issuance of that standard and by delays in issuing the NPRM resulting from requests from the industry to reduce the 1981 standards. Although the agency seeks to provide more than 30 days to comment on proposed rules, NHTSA views the 30 day period as reasonable in this case, due to the relatively narrow issues involved. More time has been provided to comment on the 1983-85 standards, where the issues involved are much more complex.

Purolator Courier Corporation argued for a more gradual increase in stringency in fuel economy standards to accommodate fleet truck operators like itself. It argued that much of the technology needed to comply with fuel economy standards is not fully proven, and that downsizing of light trucks would make those trucks less useful to commercial purchasers. Purolator also requested that a public hearing be held on the standards. The agency recognizes that changes to light trucks might result in some inconvenience to commercial users, e.g., from the need to train mechanics to repair new types of technology.

However, the Act specifies that the agency must establish fuel economy standards at the maximum feasible level for each model year, necessarily producing changes in the truck fleet. The technology projected by the agency, particularly for the 1982 model year, is well proven and in most cases already in use on some vehicles. Further, the agency's standards do not necessitate the elimination of standard-size trucks with V-8 engines, which Purolator claims to need. The agency does not see a need for a public hearing on these fuel economy standards, since the opportunity to submit written information is an effective means of addressing the primarily technical issues in a detailed fashion.

H. Economic and energy impacts of the 1982 standards.

The agency considered the economic impacts of the 1982 standards, in accordance with Executive Order 12044 and the Department's regulations for implementing that order. See 44 FR 11034. Also considered were the "Urban and Community Impacts" of the standard, as specified in Executive Order 12074. These impacts are discussed in a Regulatory Analysis, copies of which are available from the agency's Office of Plans and Programs. The major conclusions of that document are that the standards will produce gasoline savings of 1.2 billion gallons over the life of the 1982 model year light truck fleet. The investment requirement associated with making that improvement would be approximately \$900 million, part of which would be assimilated in normal business as usual capital spending. The average retail price increase resulting from the standards is approximately \$95,

but this initial cost is more than offset by the operating cost savings over the life of the vehicle of about \$470. No significant adverse "urban or community" impacts should result from the standards.

I. Environmental impacts of the standards.

The agency also considered the environmental impacts associated with the 1982 light truck standards, in accordance with the National Environmental Policy Act, 42 U.S.C. 4321, *et seq.* As has been the case with all of the agency's fuel economy standards, the main environmental impacts are positive ones associated with the reduction of petroleum consumption. Copies of the Environmental Impact Analysis are available from the individual listed as the "information contact" at the beginning of this notice.

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In consideration of the foregoing, 49 CFR Chapter V is amended as follows:

1. By deleting the footnote to the table in section 533.5 (a) and by revising the table to read as follows:

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1981 -----	16.7	16.7	15.0	15.0	14.5
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Joan Claybrook
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45 F.R. 20871
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but this initial cost is more than offset by the operating cost savings over the life of the vehicle of about \$470. No significant adverse "urban or community" impacts should result from the standards.

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but this initial cost is more than offset by the operating cost savings over the life of the vehicle of about \$470. No significant adverse "urban or community" impacts should result from the standards.

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The agency also considered the environmental impacts associated with the 1982 light truck standards, in accordance with the National Environmental Policy Act, 42 U.S.C. 4321, *et seq.* As has been the case with all of the agency's fuel economy standards, the main environmental impacts are positive ones associated with the reduction of petroleum consumption. Copies of the Environmental Impact Analysis are available from the individual listed as the "information contact" at the beginning of this notice.

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Issued on March 27, 1980.

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Administrator

45 F.R. 20871
March 31, 1980

PREAMBLE TO AN AMENDMENT TO PART 533

Light Truck Average Fuel Economy Standards; Model Years 1983-85 (Docket No. FE 78-01; Notice 4)

ACTION: Final rule.

SUMMARY: This notice establishes average fuel economy standards for light trucks manufactured in model years 1983-85. Section 502(b) of the Motor Vehicle Information and Cost Savings Act ("the Act") requires that standards be established for each model year at the maximum feasible level. Model year 1983-85 light trucks complying with these standards are expected to consume approximately 10 billion less gallons of gasoline over their lifetime, than would have been consumed if light truck average fuel economy were to remain at the levels of the 1982 standards.

FOR FURTHER INFORMATION CONTACT:

Mr. Philip W. Davis, Office of Automotive
Fuel Economy Standards (NRM-21), 400
Seventh Street, S.W., Washington, D.C.
20590 (202-472-6902)

SUPPLEMENTARY INFORMATION: This notice establishes average fuel economy standards for light trucks manufactured in model years 1983-1985. On December 31, 1979, the agency published proposed standards for light trucks manufactured in model years 1982-85, in 44 FR 77199. Due to the requirement in section 502(b) of the Act that standards be established at least 18 months prior to the start of the affected model year and due to the many complex issues involved in setting standards for the later model years, the agency separately established final standards for the 1982 model year on March 31, 1980. See 45 FR 20871. Previously, the agency established standards for light trucks manufactured in 1979 (42 FR 13807, March 14, 1977), and 1980-81 (43 FR 11995, March 23, 1978, and 44 FR 36975, June 25, 1979). Passenger automobile standards were established

in the Act for model years 1978-80 and 1985 and thereafter (15 U.S.C. 2002 (a)), and administratively by NHTSA for model years 1981-84 (42 FR 33534, June 30, 1977).

Section 502(b) of the Act requires that average fuel economy standards for light trucks be established for each model year at the "maximum feasible average fuel economy level." In determining that level, the agency is directed to consider technological feasibility, economic practicability, the need of the nation to conserve energy, and the effects of other Federal motor vehicle standards on fuel economy. A discussion of how the agency interprets these requirements is set forth in the preamble to the notice establishing the 1981-84 passenger automobile standards, cited in the previous paragraph.

In its proposal the agency invited comment upon a range of possible fuel economy standards for 1983-85. The use of a range of fuel economy values rather than a single value for each model year reflected uncertainty at the time of the proposal with respect to such issues as demand for new, compact truck models, the acceptability to consumers of light trucks with smaller displacement engines (with corresponding higher fuel economy but reduced acceleration and grade-climbing capability), and the existence and magnitude of a claimed fuel economy penalty resulting from emission standards applicable to light trucks beginning with the 1983 model year. Specifically, the ranges of fuel economy values cited in the proposal for 2-wheel drive (4x2) and 4-wheel drive (4x4) light trucks were as follows:

	4x2 (mpg)	4x4 (mpg)
1983	18.0-20.0	15.6-18.0
1984	18.8-21.4	16.1-19.3
1985	19.7-22.4	16.2-19.9

The vehicles covered by these standards include the pickup trucks, vans, and utility vehicles typically used for personal or mixed personal/commercial purposes, i.e., those with gross vehicle weight ratings (GVWR's) up to and including 8,500 pounds.

Comments on the proposed 1983-85 light truck standards were received from the domestic light truck manufacturers, Toyota, the U.S. Department of Energy (DOE) and the Regulatory Analysis Review Group (RARG). Because of the significance of certain issues raised by DOE and RARG, a notice was published in the *Federal Register* inviting public comments on those issues. See 45 FR 35403, May 27, 1980. The comments received on various issues in the rulemaking are summarized below, along with the agency's response to those comments and a summary of the basis for the final standards.

Many of the comments received in this rulemaking and many of the details of the agency's analysis contain confidential information. The confidentiality of this information (typically involving future product plans of the domestic manufacturers, especially for new models which have the greatest effect on fuel economy) prevents the agency from presenting in this notice a detailed description of the comments received and the agency's response to those comments. Nevertheless, the agency has attempted to describe the basis for the final standards by providing a general overview of these matters and an approximation of a "typical" future product plan for compliance with the standards established herein. This approach has been adopted after balancing the public's need to know the basis for the agency's actions against the manufacturers' needs to maintain the confidentiality of their future product plans. The agency in this case has tended to tip the balance in favor of preserving confidentiality. Comment is invited on how the agency could better resolve this conflict between the public's need to know and the manufacturers' need to maintain confidentiality of certain information.

Structure of the Standard

In all the light truck standard-setting to date, the agency has provided some form of separate treatment for 4-wheel drive vehicles. In 1979, the manufacturers were given the option of combining all their light trucks into one fleet and complying

with the 4x2 numerical level. In 1980-82, no alternative single standard was provided. Separate standards were provided (under the authority of section 502(b) of the Act to establish separate standards for different classes of light trucks) due to the lower fuel economy of 4x4's and the fact that two companies, American Motors and International Harvester, offered fleets comprised almost exclusively of 4x4 vehicles. Given the lower average fuel economy of those vehicles, any single standard would have had to be set low enough to accommodate those companies (giving no incentive for the other companies to achieve higher fuel economy) or above their capability (possibly penalizing those companies). Separate standards avoided this problem.

While establishing separate standards for each of several vehicle classes reduces inequities for companies with less fuel efficient fleet mixes, it also has certain disadvantages. Separate class standards reduce manufacturers' flexibility in complying with standards, by requiring improvements to each class of vehicles subject to standards rather than permitting the option of making a major improvement to only one class of vehicle. For example, under the classification system used for the model year 1980-82 standards, making a major improvement in the fuel economy of a manufacturer's vans (which are 4x2's) would not assist that company's efforts to meet the 4x4 standard.

RARG requested that NHTSA consider the establishment of a "composite" fuel economy standard as a means of providing varying levels of fuel economy standards based on differences in mix of 4x2 and 4x4 vehicles, or other more narrow classes, without the offsetting disadvantages of separate class standards. Each manufacturer's composite standard, for example could be based upon a projected mix of 4x2 and 4x4 vehicles, with a production-weighted average fuel economy standard being calculated from separate 4x2 and 4x4 targets developed as the agency had developed separate standards in the past. Thus, each company would have a different numerical fuel economy standard, depending on its projected production mix. A manufacturer with a high proportion of 4x2 vehicles would have a higher standard than a manufacturer with a lower proportion of them.

All the major domestic manufacturers commented on the RARG proposal, with Chrysler sup-

porting it and Ford supporting it as an option (to be used at the manufacturer's election) to complying with separate standards. General Motors (GM) supported the concept of a composite standard but opposed separate standards for different companies. American Motors also opposed different standards for each company.

The agency agrees with RARG's goals in proposing the composite standard, but, like some of the manufacturers, doubts the existence of any authority to set different standards for different companies based solely on mix projections. However, the advantages of the composite standard can be achieved in the 1983-85 model years through the addition of an optional single average fuel economy standard applicable to all companies. The use of a single standard (other than one set at a very low level which would sacrifice fuel economy) is possible because of projected substantial improvements in the AM fleet fuel economy (see following sections of this notice) and because International Harvester has decided to stop producing the Scout vehicle. This leaves the average fuel economy levels projected for all the domestic manufacturers within a narrow enough range to make the establishment of a single fuel economy standard for all an effective means of promoting conservation while providing the manufacturers with substantial flexibility in achieving compliance.

The combined standard is established as an option to the separate 4x2 and 4x4 standards which the agency has issued beginning with the 1980 model year. This action is being taken to permit manufacturers seeking greater investment flexibility to opt for the combined standard and to permit manufacturers seeking to increase sales of 4x4 vehicles to opt for the separate standards. Further, this approach will provide some stability in the year-to-year structure of the agency's light truck standards and would provide relief in the post-1985 period should manufacturers such as American Motors not be able to make further fuel economy improvements in their exclusively 4x4 fleets.

Basic Methodology

Several comments were received, principally from DOE, with regard to the methodology used by the agency to project future model year average fuel economy. DOE objected that the baseline used by NHTSA to project future years' fuel econ-

omy was inappropriate. The baseline used to develop the proposed fuel economy ranges for 1983-85 was the 1981 standards, which were in turn based upon pre-1979 product mix estimates and 1979 fuel economy test results. More recent mix and fuel economy information was not available at the time the agency proposed the 1983-85 standards. In particular, DOE suggested that changes be made in the baseline to reflect the shift in light truck production mix for 1980. Included in this shift are a rerating of certain trucks with large engines above the 8,500 pound GVWR upper limit of the scope of these standards and a shift in the relative proportion of smaller and larger trucks, precipitated by the rapid increase in gasoline prices in 1979-80.

The agency determined that, to meet DOE's concern about the significant change which the domestic light truck fleets and market have undergone and will undergo by 1985, a different projection methodology would be used to set the 1983-85 standards than has been used in the past. That methodology is described in detail in the agency's rulemaking support paper (RSP), copies of which are available from the individual listed as the "information contact" at the beginning of this notice. Generally, future light truck offerings were grouped in seven classes. These classes provide distinctions between various types of vehicles which have clearly different market attributes. The potential characteristics of each group were analyzed (based primarily on the manufacturers' future product plans, particularly where lead time was a controlling factor) and fuel economy value derived. Sales projections for each group of vehicles were also developed based upon information available to the agency, including the manufacturer's own estimates. Once group fuel economy and sales projections are derived, average fuel economy values for each of the model years 1983-85 were calculated.

DOE also suggested revisions to NHTSA's mathematical model used to predict the effect on fuel economy of small changes in vehicle weight, engine displacement, or axle ratio. DOE developed an alternate model which it believes provides a more accurate prediction of the effect of changes in these vehicles' attributes. Because of the DOE analysis, NHTSA reviewed its fuel economy model and has developed a new model which predicts fuel economy levels more accurately than the original

one and, in some cases, the alternative one developed by DOE. Both models provide fuel economy estimates within 5 percent of EPA test data. The major area of concern expressed by DOE was an apparent misunderstanding of the limited manner in which the agency actually used its previous model. This area is described fully in the RSP.

Technological Feasibility.

The agency received a number of comments on its analysis of the various methods available to improve light truck fuel economy in the 1983-85 model years, including a comprehensive analysis by the Department of Energy. The DOE analysis concluded that fuel economy levels approximately 1½ mpg above the upper end of the range of fuel economy levels proposed by the agency are achievable by 1985. However, DOE deferred to NHTSA on the manufacturers' capability to finance product changes. On the other hand, the vehicle manufacturers generally recommended that standards be established at the lower end of that range. These overall disagreements resulted from differences in the detailed fuel economy projections for individual truck models, technology, and sales mix made by NHTSA, DOE, and the manufacturers.

For the final rule, the agency is using fuel economy projections for individual new light truck models which tend to exceed those which formed the basis for the proposed standards. While the individual projections used in the proposal were composites reflecting information from a variety of sources (i.e., the same fuel economy value was used for all manufacturers' models of a particular type), final rule projections are manufacturer-specific. This change was made because the agency received information about manufacturers' plans after the issuance of the proposal, because in many instances individual manufacturer plans could not readily be changed at this late date in the product introduction process for the 1981-85 model years (particularly for the earlier years), and because in some cases the manufacturers' own estimates exceeded those of the agency.

The agency's analysis is based on 12 major light truck types being offered in 1983-85 in seven basic market groups. The types include 4x2 and 4x4 versions of the standard size pickup trucks, standard size utility truck, compact pickup trucks (slightly larger than current imported trucks), and

compact utility trucks, along with standard size vans, compact vans (slightly larger than the Volkswagen Vanagon, but smaller than current domestic vans), and a small, front-wheel drive passenger car-derived pickup truck which would be approximately the size of current imports. The precise attributes projected for each manufacturer's light trucks were derived from confidential submissions from those companies and from independent agency analyses. The approximate fuel economy value (in miles per gallon) projected by the agency for each truck type are as follows:

	4x2	4x4
Full size pickup	19-22	16-19
Compact pickup	27-28	23-26
Small pickup (car-based)	27-30	-
Full size van	17-20	-
Compact van	22-26	-
Full size utility	16-18	16-21
Compact utility	25-27	21-24

The above fuel economy values were derived by NHTSA from submissions from the manufacturers and from the agency's independent analysis. The manufacturer's estimates were verified by comparing their planned new models with similar existing models (adjusting for weight or other differences) and by projecting the addition of all available fuel economy improving technology. This technology typically includes a 1 percent fuel economy benefit for accessory improvements, a 3 percent improvement for engine and rear axle lubricants, a 1 percent benefit for tire improvements, and transmission improvements of from 3.5 to 10 percent, depending on the type of transmission involved. In most cases, the agency's independent assessment closely coincided with or was slightly more conservative than that of the manufacturers, in which case the agency used the manufacturer's estimate in the analysis. Where the manufacturer's estimate appeared to be unduly conservative, the agency used its own estimate.

Sales projections for the various models were developed principally from the manufacturers' own estimates, estimates of Data Resources Incorporated, and the agency's own judgment of future light truck demand. The agency made two separate sales estimates of future light truck market conditions, which are described in detail

in the agency's Final Regulatory Analysis, copies of which are available from NHTSA's Office of Plans and Programs. The cases were developed to cover the probable range of light truck sales mixes in 1983-85. In general, Case A assumes that manufacturers undertake an aggressive program of introduction of new, fuel-efficient light truck models and that strong consumer demand for these models will exist. This case represents the agency's estimate of the largest number of new model introductions each manufacturer would likely be able to undertake, considering its financial position, lead time, and competitive pressures. Case B assumes that demand for compact light trucks is less than in Case A, but still significantly higher than in the past when no domestic compact trucks were produced. In the latter scenario, the introduction of new, fuel-efficient models is delayed one or more years compared to Case A due to lack of financial capability, need to invest in passenger car programs, and more limited demand for those trucks. The projected sales fractions for new light truck models for the various manufacturers and in the various model years are as follows:

	Case A	Case B
Compact 4x2 pickup	25-35%	15-25%
Compact 4x4 pickup/utility	10-15%	10%
Compact van	15-25%	0-10%
Small car-based pickup	0-20%	0-10%

It should be noted that not every manufacturer is projected to offer all of these new models, and that current standard size truck models would still account for a substantial portion of light truck sales through 1985 under the agency's projections. A typical composite light truck fleet for 1985 under the agency's analysis would contain roughly the following fleet mix:

	Case A	Case B
Standard 4x2 pickup	20%	40%
Standard 4x4 pickup/utility	10%	15%
Standard van	5%	15%
Compact 4x2 pickup	20%	15%
Compact 4x4 pickup/utility	15%	5%

	Case A	Case B
Compact van	25%	10%
Small car-based pickup	5%	0%

Using these approximate fuel economy values and sales fractions, one can calculate average fuel economy values of about 22 mpg for Case A and 20 mpg for Case B. However, such averages are only approximations (used here because of the confidential nature of much of the specific fuel economy values and sales projections) and do not reflect the problems which individual manufacturers face in financing new models.

With respect to the 1983 and 1984 model years, the agency projected a fairly even rate of introduction of these new models, given the major investments required for production of a new vehicle and the current financial difficulties of the domestic manufacturers. This projection leads to average fuel economy levels increasing about 1.5 to 2 mpg per year over the level of the 1982 standards (about 17.5 mpg) for Case A or about 1 mpg per year for Case B, on a total domestic light truck fleet basis.

As previously stated, the agency has chosen to set final standards for 1983-85 relying heavily on the domestic manufacturers' estimates of new model fuel economy values and market shares. This was done because the agency recognized the current financial difficulties of the domestic manufacturers (see discussion below) and independently verified the new model fuel economy values provided by the manufacturers.

DOE's main objectives to NHTSA's new model projections were that the new compact pickup trucks should be projected to be the same size as current imports or smaller (rather than slightly larger as NHTSA projects), that the engines projected for those vehicles should be all 4-cylinder (rather than a mix of 4 and 6-cylinder engines as NHTSA projects), and that redesigned standard pickup trucks should be projected to have lower weights than NHTSA had estimated.

To a great extent DOE's disagreement with NHTSA with respect to the fuel economy levels projected for new models was phrased in terms of DOE's view of the domestic manufacturers' *plans* to offer new models. Based on numerous submissions to NHTSA, DOE's understanding of those plans is incorrect. Apparently the domestic manu-

facturers have determined that new compact models slightly larger than those now offered by the foreign companies will be an attractive alternative for consumers, providing more utility to the truck user at only about a 2 mpg sacrifice in fuel economy. The recent trend for the foreign manufacturers has been to slightly increase the size of their trucks. The domestic companies apparently feel that their planned small trucks have the potential to draw some purchasers who might otherwise consider full size trucks, and that offering new models identical to the imports might be less effective in attracting those purchasers and thereby result in less overall energy savings. In any case, the question of whether the domestic companies could offer smaller new models than they now plan is largely irrelevant, due to the advanced stage of their product introduction process (trade press reports indicate manufacturers will begin to introduce these models in the 1982 model year).

The agency received several comments on technological improvements projected for the 1983-85 model years. One area of comment involved the 1 percent fuel economy benefit projected for improved engine accessories. DOE commented that a 2 percent improvement is feasible, and some manufacturers indicated that a lesser improvement is the most which could be accomplished through 1985. The agency has retained its original projection (based on several research studies and manufacturer submissions) for the final rule, with the exception that accessory improvements were not projected for carry-over standard size trucks. No improvement was projected for the latter vehicles, due to limitations on manufacturer resources given the planned major product actions and the inefficiency associated with devoting resources to vehicles which would account for steadily diminishing portions of total sales and which would be replaced by new models in the near future. The agency's original 1 percent benefit was retained due to the absence of any data or analysis submitted by the commenters to support any other position.

With respect to the agency's projection of a 1 percent fuel economy benefit for reduced rolling resistance, none of the manufacturers presented data or engineering analyses supporting their claims that no such benefit is feasible. DOE argued that an additional 0.5 percent benefit should be

provided for reduced brake drag, but submitted no data to support that claim. Here again, in the absence of supporting data or analysis for any contrary position, the agency retained its original position.

DOE also suggested that aerodynamic drag and weight reduction improvements should be projected for the carry-over standard size vans and weight reduction improvements alone for standard pickup trucks. DOE would apply these improvements only where a manufacturer did not plan to replace these models in the near future. NHTSA did not adopt this suggestion for vans because of limited manufacture resources and because the cost associated with such changes could not be justified given the small potential fuel economy benefit and the relatively small market share (about 5 percent for Case A). With respect to the weight reduction comment for carryover pickup trucks, the agency believes that meaningful weight reduction can be obtained only through major redesigns. The agency's basis for projecting no further major redesigns for the domestic manufacturers is discussed in the "economic practicability" section of this notice. Due to the economic difficulties of the domestic manufacturers and the large number of lay-offs of technical personnel in those companies (as prominently reported in the press), resources will likely be hard-pressed simply to introduce the planned new models.

In the agency's proposal, an alternative set of assumptions (Case 4) was developed to obtain comment on the extent to which engine downsizing could be accomplished as a means of improving light truck fuel economy. The Case 4 scenario involved a major shift to the smallest displacement engines currently offered. DOE projected that a lesser reduction in engine displacement could be accomplished to provide about a 5 percent fuel economy improvement. According to DOE, this improvement could be accomplished without degrading vehicle performance, through improvements in engine power efficiency. The manufacturers generally argued that only slight engine downsizing could be accomplished, with Ford stating that a 2 percent fuel economy benefit could be obtained and GM stating that the feasibility of any engine downsizing in the future is "questionable."

For the final rule, the agency is projecting major engine downsizing through the introduction of new, compact truck models. Given current low

sales of domestic trucks and the strong competition being encountered from the imports, the agency cannot project any further reductions in engine size (with probable reductions in vehicle acceleration capability) which might further jeopardize the marketability of these vehicles. DOE provided no data or analysis and NHTSA knows of none to support its claim that further engine downsizing could be accomplished without sacrificing performance capability or durability.

The final technological area addressed by commenters is transmission improvements. The agency is retaining its original projections of a 5 to 7 percent improvement from 4-speed wide ratio manual transmissions (whether overdrive or direct drive), a 3.5 percent improvement when adding a lock-up clutch to a 3-speed automatic transmission, and a 10 percent improvement for automatic overdrive transmissions with lockup clutch. Several manufacturers argued that lower improvements should be projected, but they either did not support their claims with data or, in one case, submitted data (after the agency requested it) which was more supportive of the agency's position than the manufacturer's.

Ford argued that only a 0.5 percent improvement in fuel economy is available for its light trucks through the use of improved engine lubricants. Ford supported its position with data generated by the ASTM Fuel Efficient Oils Task Force, which indicates that Ford's current factory fill oil has superior fuel efficiency characteristics than the oils used by other manufacturers. In other words, it appears that Ford has already achieved part of the benefit available through the use of improved lubricants, leaving a small benefit remaining for the future. Therefore, the agency adopted Ford's projected improvement for our analysis of that manufacturer's capability. The agency continued to use 2 percent for the other manufacturers.

The manufacturers unanimously suggested that the agency continue its policy of excluding diesel engines in standard-setting analyses until the health related questions associated with the widespread use of those engines are settled. DOE, on the other hand, argued that the agency's analysis should reflect the inclusion of this technology, which represents one of the most significant methods available for improving light truck fuel economy. Although EPA has estab-

lished diesel particulate standards, the health effect issue remains open. Therefore, the agency's analysis reflects the plans of manufacturers to offer diesel engines in 1983-85 model year light trucks, but does not project any use of diesels beyond those plans. The agency is reluctant to project further dieselization while substantial health questions remain to be answered. The levels of the final standards do not require the use of diesels for compliance, since all companies can meet the standards without any diesel light trucks being offered.

Ford commented that the agency should not project the use of PROCO ("programmed combustion") engines in 1983-85 model year light trucks. Ford recently announced the cancellation of its V-8 PROCO engine program due to a variety of economic and technical problems. Therefore, the agency will delete those engines from its analysis.

Economic Practicability

The current depressed condition of the domestic auto industry has had a major impact on the agency's standard-setting process. Although the low fuel efficiency of current domestic vehicles was initially a major contributing factor to that condition, the agency recognizes that major improvements in light truck fuel economy must be financed mainly through revenues generated from the sale of current vehicles. The recent downturn in the national economy has severely limited the resources available to the manufacturers to improve light truck fuel economy.

The agency performed cash flow analyses for Ford and General Motors, to assess their capability to finance fuel economy improvements. For Chrysler, the agency has relied on the more detailed analyses of the Chrysler Loan Guarantee Board. No analysis was conducted for American Motors, pending the completion of its financial arrangement with Renault. The agency's analysis for General Motors' U.S. and Canadian automotive operations in the 1980-85 period shows a loss of about \$500 million for 1980, but a return to profitability for the remainder of the period. Due to the heavy capital investment plan announced by GM through 1985, net cash flow would be negative for GM through 1983, and would turn positive thereafter. With respect to Ford, the agency's projections are more pessimistic. The agency's analysis shows losses of over \$2.5 billion for Ford's

domestic automotive operations in 1980, with annual but smaller losses through 1982. Thereafter, Ford would return to profitability. Even though Ford has recently announced reductions in its planned capital expenditures, its cash flow would remain negative until 1985, with a cumulative negative cash flow in 1980-84 of over \$7 billion. This large projected negative cash flow led the agency to project no major capital expenditures beyond those planned by Ford for purposes of this rulemaking. (See section h of this notice.)

The Effects of Other Federal Standards on Fuel Economy

The manufacturers all argued that their ability to improve fuel economy in model years 1983-85 would be impaired by changes in the stringency of light duty truck emission standards and related requirements. Those changes, which EPA had proposed to make effective beginning with the 1983 model year but which were recently delayed until 1984 to provide additional leadtime, would, in the manufacturers' view, result in fuel economy penalties ranging from 3 to 7 percent. General Motors has recently submitted 1981 model year data to both NHTSA and EPA which purports to show that the penalty could range as high as 13 percent for some light trucks.

The manufacturers have based their claims on comparisons of 1980 49-state fuel economy and the fuel economy of light trucks meeting the more stringent California standards. The manufacturers believe that the stringency of the 1980 California standards approximates that of the 1984 Federal emission standards for light duty trucks. Both NHTSA and EPA have been wary in past rulemakings of relying on Federal-California fuel economy comparisons in predicting future model year effects because of the additional leadtime available prior to the nationwide application of more stringent standards, questions about emission control technology used, and limitations on manufacturer resources available for developing and refining emission control technology to be used on vehicles sold only in one state.

The most advanced emission control technology currently available is a system employing a 3-way catalyst with interactive electronic control of air-to-fuel ratio, spark advance, exhaust gas recirculation, and other parameters, and other emission-related hardware. This type of technology is being

used to meet 1981 passenger automobile emission standards with little or no fuel economy penalty compared to automobiles meeting prior years' standards. Some of the manufacturers' projections of 1984 light truck fuel economy penalties are based on the use of this type of technology, but others do not include it, apparently due to cost considerations. In some cases, the manufacturers have based their projections of penalties on the use of simple oxidation catalyst systems, possibly incorporating less sophisticated electronics. NHTSA's analysis of limited data from 1981 certification trucks which used some form of electronic controls showed no appreciable difference in fuel economy between California and Federal versions.

EPA, in establishing the 1984 standards, concluded that the 1984 emission levels can be met without fuel economy penalty by using electronic engine control systems, improved oxidation catalysts, and air injection. Three-way catalysts would not be needed in most cases. EPA concluded, based upon a comparison of 1980 California and Federal light duty trucks, that with no improvement over the current California technology, a penalty of 5.2 percent on average would result. Since EPA concluded that California emission requirements for 1980 are more stringent than the 1984 Federal standards and adjusting for future engine mix changes, the fuel economy penalty associated with the 1984 standards would be only 4 percent if no technology improvements were implemented. Based on EPA's review of published technical literature, that agency concluded that through the use of "moderately complex" electronics (controlling spark advance and exhaust gas recirculation rate) together with improved oxidation catalysts and air injection, the 1984 emission standards could be met without fuel economy penalty. Compliance with the standards was projected by EPA to add \$95 to the price of 1984 light trucks. The EPA analysis appears to be the most complete and detailed analysis of the emission penalty issue now available. Therefore, the agency projects for purposes of this final rule that the 1984 emission levels can be met without fuel economy penalty, consistent with the position taken by the agency in setting the 1981-84 passenger automobile fuel economy standards.

Ford projected an additional fuel economy penalty for a change in stringency in the light duty truck emission standards for oxides of nitrogen in

the 1985 model year. Such a change has not been proposed at this point. Therefore, NHTSA deems it premature to attempt to estimate the magnitude of any fuel economy penalty which might result from such changes.

The manufacturers also estimated that adverse fuel economy effects would result from future changes in safety standards applicable to light trucks. These changes would result in slight increases in vehicle weight. Since the agency adopted the manufacturers' own weight estimates for future vehicles, their claims of safety-related weight additions have been adopted.

The Need of the Nation to Conserve Energy

The United States imported only 15% of its oil needs at a cost of \$1.1 billion in 1955. In 1970, imported oil accounted for 31% of total consumption and cost the nation \$3 billion. But by 1975, 49% of the domestic demand for oil had to be imported at a cost of \$26.3 billion. This eight-fold increase in the cost of imported oil over five years was the result of huge OPEC price increases, falling domestic crude oil production, and continued increase in domestic demand. This trend has continued. By 1979, imported oil, constituting 58% of petroleum consumed, cost the nation about \$60 billion; comparable import cost estimates for 1980 are \$82 billion, and at 51 percent of domestic petroleum consumption.

The nation has become increasingly dependent for its oil supplies on the actions and decisions of a few foreign governments. This dependence has been demonstrated in the aftermath of the revolution in Iran when that country's oil production was stopped entirely in December 1978 and, once resumed, only returned to about one-half of its former level. Although the U.S. no longer imports oil from Iran, this reduction was felt by *all* importers because it represented the difference between satisfying current world oil demand and a shortage of supply. OPEC, which supplied 83% of the U.S.'s imported oil in 1978, has taken advantage of the tight world oil market by more than doubling prices from \$12.70 per barrel in December 1978, to more than \$30 per barrel as of July 1980. Currently, prices on the world "spot" market are about \$35 per barrel. An increase of this magnitude has severe adverse impacts on our trade balance, inflation, economic growth, unemployment, and confidence in

the dollar as an international reserve currency.

The rapid transition from a condition of apparent worldwide surplus in 1978 to one of shortage in 1979 has shown the instability of the world oil market. Now the Iran-Iraq war may again bring worldwide shortages. Thus, the nation's economic growth and national security are being heavily constrained by the decisions of a few foreign countries which control world oil prices and production.

The U.S. can change this situation by increasing its domestic energy production and by reducing demand. The fuel economy standards program helps to reduce demand by motor vehicles. Light trucks account for about 7% of our total oil consumption (20% of automobile consumption) and an improvement in their fuel efficiency, beyond the level scheduled to be achieved through the MY 1982 standards, is considered an integral part of the nation's total effort to conserve energy. Increased light truck fuel economy efficiency would contribute directly to reduced U.S. dependence on foreign oil and help limit foreign oil imports to a level no greater than the amount imported in 1978—in accordance with the President's pledge.

Selection of Final Standards

Based on the analysis described above, the agency projects that the following combined fuel economy levels can be achieved for model years 1983-85:

	Case A			Case B		
	1983	1984	1985	1983	1984	1985
AM	20.3	21.7	22.3	20.2	21.2	21.5
Chrysler	20.6	23.9	27.0	20.3	20.4	25.7
Ford	20.4	21.8	21.8	19.0	19.3	19.4
GM	22.7	23.2	23.5	21.1	21.2	22.0

No separate analysis was conducted for the foreign manufacturers, which project exceeding these fuel economy levels by wide margins.

The legal requirements for establishing the maximum feasible average fuel economy level for a particular model year, and thereby the levels of fuel economy standards for that year, are discussed in the preamble to the agency's final rule establishing the 1982 light truck standards. See 45 FR 20875-6, March 31, 1980. In general, the agency is directed to take "industry-wide considerations" into account in establishing standards, and should

not necessarily key the standards to the level of the least capable manufacturer. However, the agency must weigh the benefits to the nation of setting standards above such a manufacturer's level against the difficulties of individual companies. The agency must also consider the possible competitive harm associated with placing a severe strain on any company, given the small number of domestic manufacturers. In this proceeding, the agency is considering not only the range of capabilities *among* the various manufacturers but also the ranges of capability for individual companies, given the uncertainties associated with their abilities to finance new models and the ultimate market acceptance of those models.

The agency has determined that standards requiring the high rates of model introduction and high sales levels of compact trucks inherent in Case A should be gradually phased in. Therefore, the standards established for 1983 are based on the Case B set of assumptions. Even this less aggressive scenario results in an increase in fuel economy of about 1.5 mpg over the 1982 standards, comparable to the rate of increase in the passenger automobile standards over the 1980-85 period. As discussed previously in this notice, the Case B levels would permit deferral of new model introductions for some manufacturers and reduce the risk associated with only modest market acceptance of the new truck models. Relying on Case B for the 1983 model year reflects uncertainty regarding the national economy, the ability of the manufacturers to finance major new programs in the near future, and the recent reduced overall consumer demand for cars and trucks.

For 1984 and 1985, the agency has relied to a greater extent on the Case A scenario, with 1984 projections falling between Case A and Case B and 1985 projections more closely approaching Case A. This gradual increase in relative stringency of the agency's projections is due in part to the greater leadtime available for developing new programs and for generating the capital necessary to finance the required new products. Also reflected is greater long term certainty that, as gasoline prices increase, market demand for compact, fuel-efficient truck models will also increase. Although the past seven years have brought brief gasoline supply gluts or price reductions, it is virtually certain that in the long run the trend toward reduced gasoline supplies and higher prices will continue.

With respect to the range of fuel economy capabilities among manufacturers, the agency has determined that it is appropriate in this proceeding to set the 1983-85 light truck fuel economy standards at levels achievable by the "least capable manufacturer." As stated by Ford in its comments on the 1983-85 standards, the reasonableness of a decision to set standards above the level of the least capable manufacturer depends upon factors such as economic conditions and the degree of burden placed upon the individual companies.

The severe economic problems facing the manufacturers (and in particular Ford, the least capable manufacturer for 1983-85 based on the agency's analysis) were discussed in prior sections of this notice. Setting standards above the levels projected for Ford in this proceeding could result in Ford attempting to introduce additional compact truck models or major new technology programs such as diesel engines. While such actions, if successfully completed, might benefit Ford and the nation in the long run, the agency recognizes the uncertain availability of financial resources to take such actions. Setting standards above Ford's level might also result in product restrictions by Ford (e.g., limiting the sale of larger trucks and engines). Such actions could further erode Ford's economic situation. Finally, Ford could elect to pay civil penalties rather than attempting to meet the higher standards. Penalties could amount to as much as \$75 million per year. While even a penalty that large might not result in insolvency for a company as large as Ford or a "substantial lessening of competition" in the truck market (thereby permitting a reduction of penalties under section 508 of the Act), it is certainly substantial enough to make future fuel economy improvements even more difficult to finance.

The harm resulting from establishing fuel economy standards at Ford's level is the lost fuel savings. Considering the nation's serious energy problem (see discussion of "need of the nation to conserve energy," *infra*), the agency does not lightly dismiss this potential loss. However, given the seriousness of the industry's current financial problems, this potential loss in fuel savings is, in the agency's view, outweighed by the potential harm to Ford in setting standards above the level it can reasonably achieve.

The situation faced by the agency in setting the

1983-85 standards differs from that for the 1982 final rule, in which the agency set standards above the level of the least capable manufacturer. The most important difference between the two situations is that the 1982 proceeding involved setting the fuel economy standards above the level of a much smaller portion of the light truck fleet. Chrysler, whose trucks represent 10-15 percent of domestic sales, had the lowest fuel economy projection in that proceeding. Ford accounts for about 35 percent of domestic sales. Further, Chrysler was projected to have sufficient monetary credits to avoid paying penalties for its 4x2 trucks, and to partially offset penalties for its much smaller 4x4 fleet. The maximum total penalty should be under \$1 million.

By setting standards at the level of the least capable manufacturer and gradually shifting from the Case B scenario in 1983 toward the Case A scenario in 1985, fuel economy standards of 19 mpg in 1983, 20 mpg in 1984, and 21 mpg in 1985 result.

The agency also calculated separate 4x2 and 4x4 fuel economy levels. This was done by projecting a compliance strategy product plan for the least capable manufacturer to just meet the combined fuel economy standards and disaggregating that company's fleet into separate 4x2 and 4x4 sub-fleets. The resulting 4x2 and 4x4 standards are as follows: 19.5, 20.3, and 21.6 mpg for 4x2's in 1983-85, respectively, and 17.5, 18.5, and 19.0 mpg for 4x4's in those same years.

Other Comments Received

RARG proposed that an alternative methodology be used to set the 1983-85 fuel economy standards. This methodology would require that standards be based on available technological improvements which provide fuel savings greater than their cost. The costs and benefits which go into this determination would include not only the relatively straightforward gasoline pump prices and technology costs but also some quantification of national security, balance of payments and related benefits as well as truck utility degradation (e.g., smaller payload, reduced acceleration capability) costs. The manufacturers supported this approach in their comments.

The RARG methodology is a slight variation of the cost-benefit test previously proposed by the Council on Wage and Price Stability and rejected by the agency as being inconsistent with the Act.

Title V of the Cost Savings Act requires that standards be set at "maximum feasible" levels, which necessarily implies that all possible fuel economy improvements should be implemented. Given the historical background of the Act, passed as a response to the 1973 Oil Embargo, it appears that national security considerations, not consumer cost savings, are the primary focus of the legislation. Further, RARG concedes that setting a precise value for the national security benefits and vehicle utility changes would be quite difficult. It is the agency's view that Congress did not intend that the agency in the rulemaking process be required to place a dollar value on factors (particularly the national security benefits) which are not quantifiable, and to use these numbers as the basis for setting standards. Nevertheless, the agency's fuel economy rulemaking has to date produced standards which produce substantial net benefits for consumers, and the standards established herein are no exception.

GM argued that in valuing gasoline savings, a 20 percent discount rate should be used. The agency has used a 10 percent discount rate, which is standard for government programs, and constant dollars to account for inflation. GM bases its argument on its claim that light truck purchases are generally a "producer capital investment" and that the opportunity cost for capital, together with a "risk premium" to account for risks associated with truck investments, would justify the 20 percent rate. However, the agency has presented data in its various light truck rulemaking proceedings which shows that light trucks are principally used for personal, agricultural, or small commercial operations. In those situations, a 10 percent discount rate is a more accurate representation of the opportunity cost.

GM also argued for a change to the agency's classification regulations to permit redesigned versions of 4x2 utility vehicles to continue to be classified as light trucks even if their GVWR were to be reduced below 6,000 pounds. Under the agency's current regulations in 49 CFR Part 523 such a change in the vehicles' GVWR would result in their being classified as passenger automobiles. GM argues that manufacturers should not be penalized (including these vehicles in passenger automobile fleets might lower both car and truck CAFE's) for reducing the weight of their trucks. If adopted, such an amendment

would presumably apply to future compact 4x2 utility vehicles as well.

Chrysler also requested a revision to the vehicle classification regulations to assure that future compact passenger vans would be classified as light trucks, rather than as passenger automobiles. Current regulations classify large passenger vans as light trucks based on the ability of passenger van users to readily remove the rear seats to produce a flat, floor level cargo-carrying space. Future compact passenger vans might not be able to satisfy that requirement. The agency's technical analysis for this rulemaking treats 4x2 utility vehicles and passenger vans as light trucks, consistent with the classification of current vehicles. However, this treatment should not be interpreted as a statement by the agency that all future designs of 4x2 utility vehicles and compact vans will continue to be classified as light trucks. The agency will in the near future issue a notice inviting comment on the proper classification of these vehicles, and what revisions, if any, should be made to current vehicle classification regulations. Based on all information now available to the agency, the levels of fuel economy standards established herein would not change if the vehicles in question were classified as passenger automobiles.

AM again argued for the inclusion of captive import light trucks in a domestic manufacturer's CAFE. This issue has been fully dealt with in prior rulemakings and, in the absence of any new arguments, the agency will not modify its requirement that captive import light trucks must comply separately with light truck fuel economy standards.

Impacts of the Standards

The economic consequences and other impacts of the 1983-85 standards were considered by the agency in accordance with Executive Order 12221 and the Department's implementing regulations. See 44 FR 11034. The agency also considered the "Urban and Community Impacts" of the regulations, as required by Executive Order 12074. The results of this are discussed in the agency's

Regulatory Analysis, copies of which are available from the agency's Office of Plans and Programs. That document states that capital investments of approximately \$3.8 billion will be required to raise the fuel economy of the domestic light truck fleet from the level of the 1982 standards to the level of the 1985 standards. This investment would reduce expenditures for imported petroleum by \$7 billion over the life of the 1983-85 light truck fleet. Operating cost savings result from the increased fuel efficiency of the 1983-85 fleets. On a discounted basis, they amount to \$1,250 per vehicle over its 128,000 mile life. Net consumer savings—operating cost savings less retail price increases—are nearly \$1,200 per vehicle. On a benefit to cost basis, these standards would have a ratio of 19 to 1. Or, the purchaser of a 1985 truck would be paying, through higher purchase prices, about 5 cents for each of the 1,200 gallons that vehicle would save over its life—5 cents to save each of 1,200 gallons that would otherwise have cost the purchaser about \$1.50 per gallon. These standards result in a 20 percent reduction in operating costs for a MY 1985 light truck.

The environmental impacts of the 1983-85 standards were also considered, as required by the National Environmental Policy Act, 42 U.S.C. 4321, *et seq.* The major environmental impacts associated with the standards were found to be positive, such as reductions of petroleum consumption and material usage (less iron and steel). No major adverse impacts were projected.

Issued on December 8, 1980.

Joan Claybrook
Administrator

45 FR 81593
December 11, 1980

PREAMBLE TO AN AMENDMENT PART 533

Light Truck Average Fuel Economy Standards

Model Years 1985-86

[Docket No. FE 78-01; Notice 6 and No. FE-84-01; Notice 2]

ACTION: Final rule.

SUMMARY: This notice amends the light truck average fuel economy standard for model year 1985 and establishes a new standard for model year 1986. These standards are required to be established at the maximum feasible level, under section 502(b) of the Motor Vehicle Information and Cost Savings Act. It is anticipated that there will not be any loss of potential fuel savings associated with the revised 1985 standards. The 1986 light truck fleet will consume 510 million gallons less than that which would have occurred if fuel economy levels remained at those now projected for 1985. Light truck fuel economy standards for model year 1987, proposed at the same time as the model year 1986 standards, will be issued at a later date.

EFFECTIVE DATE: These standards are effective for the 1985 and 1986 model years.

Background

On March 8, 1984, NHTSA published a notice of proposed rulemaking (NPRM) on the establishment of light truck average fuel economy standards for model years 1986 and 1987. See 49 FR 8637. The issuance of the 1986 standard 18 months before model year 1986 is required by section 502(b) of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2002(b). That provision requires the Secretary of Transportation to set light truck standards at the "maximum feasible average fuel economy level" for each model year after 1978.

In determining the "maximum feasible" level, the Secretary is directed to consider four factors: technological feasibility, economic practicability, the need of the nation to conserve energy, and the effects of other Federal motor vehicle standard on fuel economy. See 15 U.S.C. 2002(e).

The agency's March NPRM proposed ranges of possible standards for all types of light trucks, with the 1986 composite standard to be set within the range of 20.0 to 21.5 mpg and the 1987 composite standard to be set within the range of 20.0 to 22.5 mpg. Ranges of standards were also proposed for two-wheel drive light trucks. These separate standards were proposed as optional means of compliance, consistent with the agency's practice in previous proceedings, and are intended to account for the fact that different manufacturers' fleets contain significantly different proportions of four-wheel drive trucks, which tend to have lower fuel economy.

Due to a continuing shift in consumer demand for light trucks, the agency anticipated that downward revisions to the standards would be necessary. The demand shifts, which are due primarily to the recent trend of stable and diminishing gasoline prices, are manifested in higher levels of sales of larger light trucks and larger displacement engines than were previously anticipated by either the manufacturers or the agency.

The market trends toward larger light trucks and larger displacement engines led Ford Motor Company to petition the agency on November 21, 1983, to reduce the existing 1984 and 1985 light truck standards. Ford also argued that changes in light duty truck emissions standards and related procedures had led to a loss in fuel economy for those years. Ford requested that NHTSA reduce

the 1984 composite light truck fuel economy standard from 20.0 to 19.0 mpg and the 1985 composite standard from 21.0 to 19.5 mpg, with corresponding changes to the optional two and four-wheel drive standards. On May 30, 1984, in 49 FR 22516, the agency proposed to grant Ford's request for the 1985 model year. However, the agency also proposed at that time to deny Ford's request for the 1984 model year, based on the agency's conclusion that the petition had not been timely filed for that model year. In its comments on this notice, Ford indicated that it would not pursue the issue of the 1984 standards since it had succeeded in assuring compliance with the standards for that year.

Summary of Decision

Based on the agency's analysis of sales data for the 1984 model year and the manufacturers' most recent projections for future sales, market trends toward large vehicles and engines have continued and are likely to continue through at least 1986. Projected fuel economy levels for 1985 domestic light truck fleets have declined on the order of 1.5 mpg since establishment of the standard, due almost entirely to mix shifts in vehicle size and engine displacement. These market trends are expected to continue through at least the 1986 model year. Our analysis leads us to establish composite average fuel economy standards of 19.5 mpg for light trucks manufactured in the 1985 model year and 20.0 mpg for 1986 model year light trucks. Equivalent separate standards for two-wheel drive and four wheel drive light trucks are also established. A decision has not yet been reached with respect to the proposed 1987 model year standards. The agency has concentrated its efforts on analyzing issues relating to the 1985-86 standards, which must be issued at this time. There is a considerable period of time before the agency is required to issue 1987 model year standards. The agency needs additional time to complete its analysis of issues relating to such standards. Some of these issues, particularly those relating to market trends, are characterized by uncertainty and complexity.

Basis for the Final Standards

a. *1985 Standards.* The basis for the agency's original 1985 standards is summarized at 45 FR 81593, December 11, 1980.

The fuel economy gains projected by the agency in that notice were due primarily to the introduction of new compact pickup, utility, and van models and progressively higher sales levels for these models. The new models were projected to employ smaller, more efficient engines and other fuel economy-improving technology. However, in its May 30, 1984 notice, the agency indicated that a number of its projections had not been borne out in terms of current consumer preferences in the marketplace. In particular, the agency's May 30 notice stated that market demand for light truck performance as reflected in engine mix and axle ratio usage, did not materialize as anticipated when the agency initially established the 1985 standards. These and certain other less significant effects produced a 1.5 mpg loss in Ford's 1985 light truck average fuel economy. The original 1985 standards were based primarily upon Ford's maximum fuel economy capability, since that company had the lowest projected fuel economy, accounted for a substantial share of light truck sales, and faced serious risk of economic harm if standards were set at levels above its capability to achieve with a product mix reflecting market demand. As the agency has consistently stated in the past, the agency has a responsibility to set standards at a level that can be achieved by manufacturers having a substantial share of light truck sales.

The agency has refined its analysis of Ford's 1985 fuel economy capability for purposes of this final rule, and has performed analyses of the capability of Chrysler and General Motors as well. Other light truck manufacturers have significantly higher average fuel economy capabilities than the three large domestic manufacturers and account for a minority share of light truck sales. These other fleets have not been analyzed for this proceeding, since it is clear that because of their small size they would not influence ultimate standards levels. The agency has concluded that there has been a market related 1.5 mpg loss in Ford's model year 1985 fuel economy capability.

Increases in demand for larger displacement engines compared to levels anticipated at the time the 1985 standards were originally established caused 0.9 mpg of the drop in Ford's model year 1985 capability. Increases in average vehicle weight principally resulting from higher than anticipated demand for larger vehicles produced a 0.5 mpg drop, while a drop in demand for diesel engines caused a further 0.1 mpg loss. Several

minor effects combined to produce an additional 0.2 mpg loss, but were more than offset by a 0.4 mpg fuel economy gain due to the use of fuel injection in certain light truck engines.

A 0.2 mpg loss in fuel economy was experienced by Ford coincident with the imposition of more stringent emission regulations. Although the agency has concluded that a 0.2 mpg fuel economy loss will occur for Ford in 1985, EPA has advised the agency that, in their opinion, this loss is due to efforts to improve engine performance through engine calibration and is not an inherent effect of the emissions standards. However, NHTSA has treated this effect as equivalent to the engine mix change effects described above since it appears to result from market demand for increased vehicle performance at a time of stable gasoline prices.

A decline in General Motors 1985 fuel economy is also projected by the agency to a level of 20.0 mpg. The magnitude of this reduction is similar to that experienced by Ford, and is also due to market demand factors. The major factors causing the decline in GM's 1985 fuel economy were found to be an increase in average vehicle weight and engine displacement due to higher than anticipated demand for larger vehicles and engines, a decline in demand for diesel engines, reduced demand for manual transmissions, and increased demand for vehicles with four-wheel drive capability.

Chrysler's 1985 fuel economy is estimated to be 20.3 mpg. The other domestic and foreign manufacturers were not assessed in detail in this analysis, for the reasons noted above.

b. *1986 Standards.* Based primarily on technology, the agency anticipates that Ford can achieve a fuel economy gain of 0.9 mpg over the 1985 standard of 19.5 mpg. This fuel economy gain is due predominantly to the introduction of engines using more efficient lean burn/fast burn technologies (0.5 mpg) and also to the elimination of the engine calibration/emissions effect described above (0.2 mpg) and gradual growth in demand for new small vans (0.2 mpg). However, the agency believes these gains will be somewhat offset by continued market shifts, as discussed below. The emissions standards effects are also discussed below.

The agency also projects that GM can achieve fuel economy gains of the same magnitude through engine efficiency improvements as projected for Ford (0.5 mpg). Through a variety of other minor improvements, the agency projects that GM can achieve an additional 0.1 mpg improvement. Taken

together, these improvements will enable GM to achieve a composite average fuel economy of 20.6 mpg in 1986.

Chrysler is capable of achieving the highest 1986 fuel economy levels of the "Big 3" domestic manufacturers, 21.5 mpg. This gain primarily results from the introduction of fuel efficient engine technology and the introduction of certain new light weight truck models.

For each of the two model years covered by this rule, the agency concluded that fuel economy improvements beyond those previously discussed are not feasible.

d. *Economic practicability.*

Economic factors have been of significance in the agency's standard-setting analysis, particularly the potential costs incurred by manufacturers should standards necessitate the sale of a "non-free market" model mix. As noted in the discussion of fleet technology above, virtually the entire fuel economy difference between the original 1985 standard and the lower standards promulgated herein reflects a change in anticipated market demand for larger light trucks and engines, resulting from lower than anticipated gasoline prices. The mix of vehicles and engines projected in this notice for the 1985-86 model years is an estimate of free market demand for light trucks under current market conditions.

It is possible that higher levels of fuel economy could be achieved by domestic manufacturers should they restrict their product offerings. For example, sales of particular larger light truck models and larger displacement engines could be limited or eliminated entirely. In its petition to reduce the 1984-85 light truck standards, Ford submitted an analysis of the potential effects of restricting product offerings in this manner. This analysis showed that to achieve a 1.5 mpg average fuel economy benefit, sales reductions of 100,000 to 180,000 units at Ford could occur, with resulting employment losses of 12,000 to 23,000 positions at Ford, its dealers and suppliers. To the extent that these sales restrictions merely shifted purchasers of larger trucks to other manufacturers, no net fuel economy benefit would be achieved. No commenter in the proceeding directly took issue with the Ford analysis. The agency believes this analysis to be a reasonable projection of the impacts of restricting the availability of larger trucks and engines in the current market. Impacts of this magnitude would go beyond the realm of "economic

practicability" as contemplated in the Act, particularly in view of the uncertain energy benefits.

The agency has analyzed the economic impacts associated with the manufacturers' efforts to improve the fuel economy of individual light truck models in the 1985-86 time period. This analysis is set forth in a Regulatory Impact Analysis, copies of which are available in the agency's Docket Section. The agency projects an average retail price increase of \$35 to result from these improvements. This price increase would be offset by operating cost savings of \$176 for the average 1986 light truck, due to reduced lifetime gasoline consumption. Overall, the agency projects the domestic manufacturers' automotive operations to remain highly profitable over the 1985-86 period, based on current market trends.

e. Effects of other Federal Standards on fuel economy. Three new light truck exhaust emission requirements were cited by several commenters as having possible adverse impacts on fuel economy. The first requirement is a change in stringency in hydrocarbon and carbon monoxide emissions standards, which took effect in the 1984 model year. The second requirement extends the useful life period for which manufacturers must certify compliance with emissions standards beginning with the 1985 model year. The third requirement is an anticipated increase in stringency of light duty truck emission standards for oxides of nitrogen.

The agency has concluded that none of these regulatory changes will impact 1985-86 light truck fuel economy levels. With regard to 1984 emissions standards changes and the extended useful life regulation, the agency concurs in a technical analysis provided by the Environmental Protection Agency (EPA) which indicates that there is no causal link between these regulations and any loss in fuel economy experienced by the manufacturers. A Department of Transportation assessment of the 1984-85 emissions regulations supported the EPA conclusions. In the case of the possible change in the emission standards for oxides of nitrogen, EPA has yet to issue proposed standards. Given the need for EPA to conduct a rulemaking proceeding and provide adequate lead time, NHTSA concludes that it is unlikely that any change in stringency of that standard would occur by 1986. If this judgment turns out to be incorrect, the agency will reassess the impact of such a change on light truck fuel economy.

General Motors argued that future light truck diesel particulate emission standards could effectively ban diesel engines in such vehicles, reducing fuel economy levels accordingly. EPA has indicated that these standards can be met with available technology. However for certain vehicles EPA concedes that the standards may require the use of particulate traps which could produce a fuel economy penalty of approximately 2 percent per affected vehicle. NHTSA is accepting the EPA analysis. Should the anticipated fuel economy penalty occur, the impact on the domestic manufacturers' average fuel economy levels would be much less than 0.1 mpg, and would therefore not impact fuel economy standards levels.

American Motors argued that changes in EPA test procedures will result in a fuel economy loss. American Motors did not provide an analysis of the quantitative impact of the proposed rule on American Motors' average fuel economy levels, and none of the other manufacturers argued for the existence of such an impact. In its comments, American Motors noted that the potential impact of the change in EPA procedures could be offset through testing additional vehicles, but pointed out that such testing might be too expensive for a smaller manufacturer. Should American Motors experience a fuel economy loss, its average fuel economy levels will still be high enough to easily comply with the standards promulgated herein. Therefore, the agency is not making a specific adjustment in the standards to account for this potential effect.

f. Need of the nation to conserve energy.

The United States imported 15 percent of its oil needs at a cost of \$1.1 billion in 1955. By 1977, the import share peaked at 46.4 percent at a cost of \$42 billion. While the import share of total petroleum demand has been steadily declining since 1977 to 1983 level of 28 percent, the cost continued to rise to a 1981 peak level of \$75.8 billion. In 1983, the percentage of imported petroleum was the lowest it had been during the prior decade, and the cost was lower than in 1979. During most of this period price controls on petroleum were in effect, sending the wrong economic signals to consumers. It is during such a period that fuel economy standards are most effective.

The rapid transition from apparent worldwide surplus in 1978 to shortage in 1979, to surplus again today points out the instability of the world oil market. The U.S. is now dependent for about

a third of its oil supplies on the actions and decisions of a few foreign governments. Although the concern over dependence on imported petroleum has lessened in the past few years, it is necessary to continue conservation efforts due to the uncertainty, especially in regard to the Middle East, of the future availability of petroleum.

g. *Determining the maximum feasible average fuel economy level.* In determining the level at which standards are to be set, the agency must take industrywide considerations into account. The Conference Report on Title V of the Motor Vehicle Information and Cost Saving Act provides in this regard as follows:

...a determination of maximum feasible average fuel economy should not be keyed to the single manufacturer which might have the most difficulty achieving a given level of average fuel economy. Rather, the Secretary must weigh the benefits to the nation of a higher average fuel economy standard against the difficulties of individual automobile manufacturers. Such difficulties, however, should be given appropriate weight in setting the standard in light of the small number of domestic automobile manufacturers that currently exist, and the possible implications for the national economy and for reduced competition association (sic) with a severe strain on any manufacturer. However, it should also be noted that provision has been made for granting relief from penalties under Section 508(b) in situations where competition will suffer significantly if penalties are imposed.

Senate Report 94-516, 94th Cong. 1st Sess. (1975), at 154-5.

As in the proposals, NHTSA's analysis concludes for both years that Ford is the "least capable" manufacturer in regard to improving the average fuel efficiency of its light trucks. For the 1985 model year, the agency projects that Ford can achieve 19.5 mpg, while GM could achieve 20.0 mpg and Chrysler 20.3 mpg. Production of 1985 model year vehicles has begun, so there is little that the manufacturers can do at this point to change their 1985 average fuel economy through use of additional technology. Setting the 1985 standards significantly above Ford's level would not likely increase that company's fuel economy performance

through greater use of technology, but might require drastic product restriction actions which would adversely affect employment at Ford. Such actions by Ford might also result in the shifting of sales of larger light trucks with large engines to other manufacturers, thereby achieving no net fuel economy improvement for the industry as a whole. On the other hand, setting standards below the level attainable by GM and Chrysler would not likely cause those companies to reduce their fuel economy performance, since the agency's projected levels for those companies is based on the product mixes they plan to sell. Further, GM indicated in its comments that setting standards at a level below its planned levels would not cause GM to revise its plans. Therefore, the agency concludes that the risks associated with setting standards above Ford's maximum feasible level and possibly forcing that company to adopt severe product restrictions outweigh the potential benefits from setting standards at a higher level.

For the 1986 model year, the agency projects the maximum fuel economy Ford could achieve is 20.4 mpg, GM 20.6 mpg, and Chrysler 21.5 mpg. Data provided by Ford indicate that Ford's 1986 fuel economy could be as low as 19.6 mpg if consumers maintain a strong demand for larger vehicles. The agency also found that GM faces a number of technological risks involving certain engine efficiency improvements for 1986. If these technological actions became infeasible, NHTSA estimates the company's 1986 fuel economy would decline to 20.0 mpg.

There are additional factors to be considered selecting the 1986 standards. Major technological changes can not be made in manufacturers' product plans for that year. New programs cannot be developed to compensate for market shifts or technological problems. Furthermore, as noted in the NPRM, manufacturers' projections (and NHTSA's analyses) of their fuel economy improvement capabilities have declined over the past 1-1/2 years due to market changes. For all the above reasons, the agency has decided to set the 1986 composite standard at 20.0 mpg. The agency believes the risks of reduced sales and employment resulting from attempts to achieve a higher level for MY 1986 outweigh the potential fuel savings.

The agency has decided to continue setting 4×2 and 4×4 standards for each year as an alternative to the composite standard. Separate $4 \times 2/4 \times 4$ standards allow manufacturers greater flexibility

in planning their fuel economy improvements and do not discriminate against firms with truck fleets heavily weighted toward four-wheel drive or two-wheel drive models.

The final standards are:

Model Year	Composite Standard MPG	4 × 2 Standard MPG	4 × 4 Standard MPG
1985	19.5	19.7	18.9
1986	20.0	20.5	19.5

Other Comments on the NPRM

In its March 1984 NPRM, the agency raised the possibility of changing the structure and scope of the current standards in several ways, including establishing a number of additional standards for subclasses of the light truck fleet and limiting the scope of the standards with regard to vehicles in the 6001-8500 pound gross vehicle weight range. Those commenters taking a position on the merits of this issue generally argued in favor of retaining the present structure of standards, at least for this rulemaking, citing the additional complexity resulting from multiple standards. Ford pointed out that addressing the issue at this time could delay the rulemaking, which is subject to stringent time constraints. Therefore, the agency is making no changes in this area at the current time.

GM and Ford argued that the agency should revise the manner in which it evaluates the economic practicability of standards. Both companies argued that cost/benefit considerations should play a greater role in the agency's standard-setting, and Ford suggested a variety of additional factors the agency should consider. However, in this proceeding, none of the additional criteria suggested by Ford would affect the level at which the standards are set in this rule. Furthermore, the agency has always considered cost/benefit analysis results in setting fuel economy standards; indeed, the most stringent economic criterion for this rule has been the one the agency has traditionally relied upon: the risk of any substantial adverse economic impacts on the industry or the national economy. The standards are being set at the levels discussed above to avoid the risk of significant adverse employment impacts which could result if the manufacturers (and Ford in particular) restricted product offerings to comply with overly stringent standards.

A coalition of public interest organization opposed the agency's proposed 1986 standard level, arguing that it was based on an assumption of the continuation of the current favorable energy supply and cost situation. The coalition recommended a standard of 22.5 mpg for model year 1986. No technical or economic analysis was provided to support the feasibility of a standard at this level. The agency agrees that the need of the nation to conserve energy remains strong and that the nation still faces the risk of energy problems in the future. However, section 502 of the Act requires the agency to set standards at the maximum feasible average fuel economy level, considering not just energy conservation needs but also technical and economic factors. As discussed above, the agency believes that requiring compliance with more stringent standards than provided herein would create a risk of serious adverse economic repercussions such as losses in employment in the automobile and related industries, without necessarily producing the contemplated fuel economy gains.

In its NPRM concerning the MY 1984-1985 standards, the agency concluded that Ford's petition to amend the 1984 light truck standards was not timely filed due to legal time constraints for amending standards. The agency presented its tentative conclusion that amendments reducing the stringency of standards for a particular model year may be made up until the beginning of the model year but not after that time. Several vehicle manufacturers disagreed with this conclusion. Ford, GM and Volkswagen argued that amendments reducing the stringency of standards may be made at any time, including during a model year. Chrysler, on the other hand, argued that amendments reducing the stringency of standards must be made 18 months prior to the beginning of a model year. As discussed below, the agency has decided that its tentative conclusion was correct. The following paragraphs provide a complete discussion of this issue both for purposes of this rulemaking and to provide a complete discussion of this issue both for purposes of this rulemaking and to provide future guidance to manufacturers as to the correct timing of petitions.

A model year is presumed to begin in the autumn of the preceding calendar year (see *Center for Auto Safety v. NHTSA*, 710 F.2d 842 (D.C. Cir. 1983).) Ford's petition to reduce the existing 1984 and 1985 light truck standards was filed on

November 21, 1983, and amended on January 20, 1984. Since model year 1984 began in the fall of 1983, it is clear that the 1984 light truck standards could not have been amended in response to the Ford petition prior to the start of that model year.

Section 502(b) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(b) requires that the Secretary of Transportation "shall, by rule, prescribe average fuel economy standards" for light trucks for each model year beginning with 1979. These standards must be prescribed at least "18 months prior to the beginning of" the model year to which they apply. *Id.*

Section 502(f)(1) of the Act provides that the "Secretary may, by rule, from time to time, amend" any light truck fuel economy standard "so long as such standard, as amended, meets the requirements" of section 502(b). Section 502(f)(2) provides that any amendment which makes standards more stringent must be promulgated "at least 18 months prior to the beginning of the model year to which such amendment will apply."

The Conference Report on the Energy Policy and Conservation act (the statute which added the fuel economy provisions to the Motor Vehicle Information and Cost Savings Act) contains the following discussion:

Average fuel economy standards prescribed by the ST (Secretary of Transportation) for passenger automobiles in model years after 1980, for nonpassenger automobiles, and for passenger automobiles manufactured by manufacturers of fewer than 10,000 passenger automobiles may amended from time to time as long as each such amendment satisfies the 18 month rule—i.e., any amendment which has the effect of making an average fuel economy standard more stringent must be promulgated at least 18 months prior to the beginning of the model year to which such amendment will apply. *An amendment which has the effect of making an average fuel economy standard less stringent can be promulgated at any time prior to the beginning of the model year in question.*

See Sen. Rep. 94-516, 94th Cong., 1st Sess. (1975) at 157. [Emphasis added.]

As noted above, Ford, General Motors and Volkswagen argued that there is not time limita-

tion on amendments reducing the stringency of standards and that such amendments may be made in mid-model year. GM read section 502(f)(1) and section 502(f)(2) to together imply that Congress concluded that it was not necessary or appropriate to set time limits on standards reduction rulemaking. GM argued that the statutory structure is unambiguous, citing Sands, *Sutherland Statutory Construction* Section 46.01 (Fourth Ed. 1973), for the plain meaning rule of statutory construction. Ford stated that the purpose of the leadtime provisions included in the Act is to protect manufacturers from not being given sufficient time to plan and implement compliance with a more stringent standard and that the provisions should not be construed to operate to manufacturers' detriment. Ford stated that as a general rule of statutory construction, a distinction must be made between utilizing legislative history for purposes of illuminating Congressional intent with respect to express statutory language and using such history to write into the law that which is not otherwise there. Ford also argued that the language of the Conference Report was intended to emphasize the fact that, in contrast to the situation in which more stringent standards are established, there is no leadtime requirement with respect to less stringent standards.

Chrysler, however, argued that amendments reducing the stringency of standards must be made at least 18 months prior to the beginning of the model year and that, therefore, Ford's petition was too late with respect to both the 1984 and 1985 model years. Chrysler argued that section 502(b) calls for 18 months leadtime for any standards being prescribed and that changes in standards come within that requirement. Chrysler contended that this specific language of the law takes precedence over the Conference Report. Chrysler stated that the 18 month requirement of section 502(f)(2) is also applicable since granting Ford's request would in effect make the standards more stringent for Chrysler.

As suggested by the two very different views advanced by the commenters, the timing requirements applicable to amendments which make standards less stringent are not clear on the face of the statute. The language in section 502(f)(1) authorizing amendments "from time to time" could be interpreted to permit amendments at any time. Alternatively, the language in that paragraph requiring that amendments to standards must comply

with requirements applicable to their original enactment could be interpreted to impose the 18 month rule, one of the requirements of section 502(b) on amendments to reduce standards.

Where a statutory provision is ambiguous on its face, rules of statutory construction dictate that the legislative history of the provision must be considered. See Sutherland, "Statutory Construction," 4th Ed., section 48.01. An Act's Conference Report has been considered the "most persuasive evidence of congressional intent" in this regard. *Demby v. Schweiker*, 671 F.2d 507, 510 (D.C. Cir. 1981).

The agency believes the language of the Conference Report is clear on this point. As indicated above, the Conference Report includes a statement that "(a)n amendment which has the effect of making an average fuel economy standard less stringent can be promulgated at any time prior to the beginning of the model year in question." While the discussion in the Conference Report does not expressly prohibit amendments after the start of a model year, the quoted sentence certainly implies that result. If no limit on the timing of relaxatory amendments had been intended, the sentence would have ended after the words "... promulgated at any time..." The agency believes that Congress intended to provide certainty and finally for all parties concerned with regard to the levels of standards, to permit planning by the manufacturers and the agency through cutting off amendments once a model year has begun.

Ford has argued that a failure to permit amendments to fuel economy standards after the start of a model year places manufacturers in a difficult position, since unanticipated sales trends during the model year might impair its ability to comply. However, the agency is also concerned that amendments made after production has begun have some characteristics of *ex post facto* law.

On this point, the agency notes that, as quoted above, section 502(b) and 502(f)(1) require that fuel economy standards and amendments to such standards be prescribed "by rule". The term "rule" ordinarily refers to prospective agency action. The Administrative Procedure Act's definition of rule incorporates the concept of "agency statement of general or particular applicability and future effect." See 5 U.S.C. §551(4) (emphasis added). Since an average fuel economy standard regulates overall production over an entire model year, a change to such a standard during the model year would

represent, in part, retrospective agency action, with retroactive effect. On the issue of retroactive rules, Kenneth Culp Davis states that "... agencies have no powers except those conferred and courts are reluctant to imply power to issue retroactive rules..." Davis, *Administrative Law Treatise*, 2d ed., §7.23. The agency does not believe that a court imply such authority in this instance, particularly given the statement in the legislative history implying that Congress intended the opposite result.

The agency believes that Congress intended standards to be established before production begins, to encourage the achievement of particular fuel economy levels rather than imply ratifying past conduct. As noted above, Chrysler expressed similar concerns in its comments, noting that late changes in standards levels could adversely affect manufacturers who planned to meet the original levels. Therefore, the agency must reaffirm its previous position that petitions to amend fuel economy standards must be submitted in time to permit necessary rulemaking to be completed prior to the start of the model year.

With respect to Chrysler's suggested construction of section 502(f)(2), the agency sees no basis in the Act or its legislative history for construing "more stringent" amendments to mean anything other than its common meaning, i.e., numerically higher. Adopting Chrysler's proposed construction would mean that all amendments make standards "more stringent" regardless of the direction of the change, since any particular standards level will impact manufacturers unequally. In that case, the "more stringent" language of the Act would be rendered meaningless, a result to be avoided under normal rules of statutory construction. The agency rejects this argument.

The agency recognizes the general concern raised by Chrysler that standards reductions may adversely affect manufacturers which made good faith efforts to achieve the initially established standards level. However, the agency must consider the feasibility of its standards for the industry as a whole, as noted above. With regard to the 1985 standards, it appears that none of the domestic manufacturers, including Chrysler, will be able to meet the original standards. Therefore, the agency concludes that reducing the 1985 standards is necessary.

Ford has also requested that the agency specify the precise date by which petitions to amend fuel

economy standards must be filed. As noted above, the single court to address the issue has stated only that a given model year begins in the fall of the preceding calendar year (e.g., fall 1984 is the beginning of the 1985 model year). In its final rule establishing fuel economy reporting requirements, the agency took the position that, in the absence of any single "annual production period," the model year would be deemed to coincide with the calendar year, e.g., the 1985 model year would begin January 1, 1985. See 19 U.S.C. 2001(12) and 42 FR 62374 (December 12, 1977). Since any amendments to standards must be *promulgated* prior to the start of the model year, petitions must be filed in time to permit the agency to complete a rulemaking proceeding on the petition prior to the start of the model year. The time necessary for such a proceeding will vary greatly depending on the complexity and controversiality of the issues involved. A proceeding would involve agency analysis of the petition, preparation and publication of the necessary supporting documentation, a minimum public comment period, analysis of comments, and preparation and publication of the documentation necessary to accompany the final decision. The various uncertainties affecting the duration of a proceeding make it impossible for the agency to specify a precise date after which petitions will not be accepted. However, it is clear that the Ford petition, which was filed in November of the preceding calendar year, was not timely. As a general matter, petitions regarding a particular model year's standards should be submitted no later than the early part of the preceding calendar year, and preferably before that time.

In accordance with section 502(j) of the Act, the agency has submitted this rule to the Department of Energy for review. The Department of Energy indicated that it had no comment on the rule.

In consideration of the foregoing, 49 CFR Chapter V is amended by revising Table II in S533.5(a) to read as follows:

S533.5 Requirements.

(a) * * *

TABLE II

Model	Year	Combined standard		2-wheel drive light trucks		4-wheel drive light trucks	
		Captive imports	Other	Captive imports	Other	Captive imports	Others
1982		17.5	17.5	18.0	18.0	16.0	16.0
1983		19.0	19.0	19.5	19.5	17.5	17.5
1984		20.0	20.0	20.3	20.3	18.5	18.5
1985		19.5	19.5	19.7	19.7	18.9	18.9
1986		20.0	20.0	20.5	20.5	19.5	19.5

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Diane K. Steed
Administrator

49 FR 41250
October 22, 1984

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1985		19.5	19.5	19.7	19.7	18.9	18.9
1986		20.0	20.0	20.5	20.5	19.5	19.5

Issued on October 16, 1984.

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October 22, 1984

PART 533—LIGHT TRUCK FUEL ECONOMY STANDARDS
(Docket No. FE 77-05; Notice 5)

Sec.

533.1 Scope

533.2 Purpose

533.3 Applicability

533.4 Definitions

533.5 Requirements

533.6 Measurement and calculation procedures

S533.1 Scope. This part establishes average fuel economy standards pursuant to section 502(b) of the Motor Vehicle Information and Cost Savings Act, as amended, for light trucks.

S533.2 Purpose. The purpose of this part is to increase the fuel economy of light trucks by establishing minimum levels of average fuel economy for those vehicles.

S533.3 Applicability. This part applies to manufacturers of light trucks.

S533.4 Definitions.

(a) Statutory terms.

(1) The terms "average fuel economy," "average fuel economy standard," "fuel economy," "import," "manufacture," "manufacturer," and "model year" are used as defined in section 501 of the Act.

(2) The term "automobile" is used as defined in section 501 of the Act and in accordance with the determinations in 49 CFR 523.

(3) The term "domestically manufactured" is used as defined in section 503(b) (2) (E) of the Act.

(b) Other terms. As used in this part, unless otherwise required by the context—

"Act" means the Motor Vehicle Information Cost Savings Act, as amended by Pub.L. 94-163.

"Light truck" is used in accordance with the determinations in 49 CFR Part 523.

"Captive import" means, with respect to a light truck, one which is not domestically manufactured but which is imported in the 1980 model year or thereafter by a manufacturer whose principal place of business is in the United States.

"4-wheel drive, general utility vehicle" means a 4-wheel drive, general purpose automobile capable of off-highway operation that has a wheelbase of not more than 110 inches, and that has a body shape similar to 1977 Jeep CJ-5 or CJ-7, or the 1977 Toyota Land Cruiser.

"Limited product line light truck" means a light truck manufactured by a manufacturer whose light truck fleet is powered exclusively by basic engines which are not also used in passenger automobiles.

"Basic engine" means a unique combination of manufacturer, engine displacement, number of cylinders, fuel system (as distinguished by number of carburetor barrels or use of fuel injection), and catalyst usage.

S533.5 Requirements

(a) Each manufacturer of light trucks shall comply with the following average fuel economy

Model year	2-wheel drive light trucks		4-wheel drive light trucks		Limited product line light trucks
	Captive imports	Other	Captive imports	Other	
1979		17.2		15.8	
1980	16.0	16.0	14.0	14.0	14.0
1981	16.7	16.7	15.0	15.0	14.5
1982	18.0	18.0	16.0	16.0	—

Model year	Combined Standard		2-wheel drive light trucks		4-wheel drive light trucks	
	Captive imports	Others	Captive imports	Others	Captive imports	Others
1982	17.5	17.5	18.0	18.0	16.0	16.0
1983	19.0	19.0	19.5	19.5	17.5	17.5
1984	20.0	20.0	20.3	20.3	18.5	18.5
1985	19.5	19.5	19.7	19.7	18.9	18.9
1986	20.0	20.0	20.5	20.5	19.5	19.5

(49 F.R. 41250—October 22, 1984. Effective: For 1985 and 1986 model years.)

standards, expressed in miles per gallon, in the model year specified as applicable:

(b) (1) For model year 1979, each manufacturer may:

(i) Combine its 2- and 4-wheel drive light trucks and comply with the average fuel economy standard in paragraph (a) for 2-wheel drive light trucks; or

(ii) Comply separately with the two standards specified in paragraph (a).

(2) For model year 1979, the standard specified in paragraph (a) for 4-wheel drive light trucks applies only to 4-wheel drive general utility vehicles. All other 4-wheel drive light trucks in that model year shall be included in the 2-wheel drive category for compliance purposes.

(c) For model years 1980 and 1981, manufacturers of limited product line light trucks may:

(1) Comply with the separate standard for limited product line light trucks, or

(2) Comply with the other standards specified in § 533.5(a), as applicable.

(d) For model years 1983-85, each manufacturer may:

(1) Combine its 2- and 4-wheel drive light trucks (segregating captive import and other light trucks) and comply with the combined average fuel economy standard specified in paragraph (a); or

(2) Comply separately with the 2-wheel drive standards and the 4-wheel drive standards (segregating captive import and other light trucks) specified in paragraph (a) of this section.

S533.6 Measurement and calculation procedures.

(a) Any reference to a class of light trucks manufactured by a manufacturer shall be deemed:

(1) To include all light trucks in that class manufactured by persons who control, are controlled by, or are under common control with, such manufacturer; and

(2) To exclude all light trucks in that class manufactured (within the meaning of paragraph (a) (1) of this section) during a model year by such manufacturer which are exported prior to the expiration of 30 days following the end of such model year.

(b) The average fuel economy of all light trucks that are manufactured by a manufacturer and are subject to S533.5(b) or to S533.5(c) shall be determined in accordance with procedures established by the Administrator of the Environmental Protection Agency under section 503(a) (2) of the Act.

**42 F.R. 13807
March 14, 1977**

PART 533—LIGHT TRUCK FUEL ECONOMY STANDARDS
(Docket No. FE 77-05; Notice 5)

Sec.

533.1 Scope

533.2 Purpose

533.3 Applicability

533.4 Definitions

533.5 Requirements

533.6 Measurement and calculation procedures

S533.1 Scope. This part establishes average fuel economy standards pursuant to section 502(b) of the Motor Vehicle Information and Cost Savings Act, as amended, for light trucks.

S533.2 Purpose. The purpose of this part is to increase the fuel economy of light trucks by establishing minimum levels of average fuel economy for those vehicles.

S533.3 Applicability. This part applies to manufacturers of light trucks.

S533.4 Definitions.

(a) Statutory terms.

(1) The terms "average fuel economy," "average fuel economy standard," "fuel economy," "import," "manufacture," "manufacturer," and "model year" are used as defined in section 501 of the Act.

(2) The term "automobile" is used as defined in section 501 of the Act and in accordance with the determinations in 49 CFR 523.

(3) The term "domestically manufactured" is used as defined in section 503(b) (2) (E) of the Act.

(b) *Other terms.* As used in this part, unless otherwise required by the context—

"Act" means the Motor Vehicle Information Cost Savings Act, as amended by Pub.L. 94-163.

"Light truck" is used in accordance with the determinations in 49 CFR Part 523.

"Captive import" means, with respect to a light truck, one which is not domestically manufactured but which is imported in the 1980 model year or thereafter by a manufacturer whose principal place of business is in the United States.

"4-wheel drive, general utility vehicle" means a 4-wheel drive, general purpose automobile capable of off-highway operation that has a wheelbase of not more than 110 inches, and that has a body shape similar to 1977 Jeep CJ-5 or CJ-7, or the 1977 Toyota Land Cruiser.

"Limited product line light truck" means a light truck manufactured by a manufacturer whose light truck fleet is powered exclusively by basic engines which are not also used in passenger automobiles.

"Basic engine" means a unique combination of manufacturer, engine displacement, number of cylinders, fuel system (as distinguished by number of carburetor barrels or use of fuel injection), and catalyst usage.

S533.5 Requirements

(a) Each manufacturer of light trucks shall comply with the following average fuel economy

Model year	2-wheel drive light trucks		4-wheel drive light trucks		Limited product line light trucks
	Captive imports	Other	Captive imports	Other	
1979 -----		17.2		15.8	
1980 -----	16.0	16.0	14.0	14.0	14.0
1981 -----	16.7	16.7	15.0	15.0	14.5
1982 -----	18.0	18.0	16.0	16.0	—

Model year	Combined Standard		2-wheel drive light trucks		4-wheel drive light trucks	
	Captive imports	Others	Captive imports	Others	Captive imports	Others
1982 -----	17.5	17.5	18.0	18.0	16.0	16.0
1983 -----	19.0	19.0	19.5	19.5	17.5	17.5
1984 -----	20.0	20.0	20.3	20.3	18.5	18.5
1985 -----	19.5	19.5	19.7	19.7	18.9	18.9
1986 -----	20.0	20.0	20.5	20.5	19.5	19.5

(49 F.R. 41250—October 22, 1984. Effective: For 1985 and 1986 model years.)

standards, expressed in miles per gallon, in the model year specified as applicable:

(b) (1) For model year 1979, each manufacturer may:

(i) Combine its 2- and 4-wheel drive light trucks and comply with the average fuel economy standard in paragraph (a) for 2-wheel drive light trucks; or

(ii) Comply separately with the two standards specified in paragraph (a).

(2) For model year 1979, the standard specified in paragraph (a) for 4-wheel drive light trucks applies only to 4-wheel drive general utility vehicles. All other 4-wheel drive light trucks in that model year shall be included in the 2-wheel drive category for compliance purposes.

(c) For model years 1980 and 1981, manufacturers of limited product line light trucks may:

(1) Comply with the separate standard for limited product line light trucks, or

(2) Comply with the other standards specified in § 533.5(a), as applicable.

(d) For model years 1983-85, each manufacturer may:

(1) Combine its 2- and 4-wheel drive light trucks (segregating captive import and other light trucks) and comply with the combined average fuel economy standard specified in paragraph (a); or

(2) Comply separately with the 2-wheel drive standards and the 4-wheel drive standards (segregating captive import and other light trucks) specified in paragraph (a) of this section.

S533.6 Measurement and calculation procedures.

(a) Any reference to a class of light trucks manufactured by a manufacturer shall be deemed:

(1) To include all light trucks in that class manufactured by persons who control, are controlled by, or are under common control with, such manufacturer; and

(2) To exclude all light trucks in that class manufactured (within the meaning of paragraph (a) (1) of this section) during a model year by such manufacturer which are exported prior to the expiration of 30 days following the end of such model year.

(b) The average fuel economy of all light trucks that are manufactured by a manufacturer and are subject to S533.5(b) or to S533.5(c) shall be determined in accordance with procedures established by the Administrator of the Environmental Protection Agency under section 503(a) (2) of the Act.

**42 F.R. 13807
March 14, 1977**

Notice of Interpretation

(Docket No. FE 79-01; Notice 1)

Summary: This notice announces the agency's interpretation of the extent to which the law permits, with respect to 1979 and 1980, monetary credits earned by manufacturers of light trucks for exceeding fuel economy standards in one year to be applied to civil penalty liabilities for violating those standards in the other year. This interpretation is being issued at the request of several manufacturers to assist them in planning compliance with light truck fuel economy standards.

For further information contact:

Mr. Theodore Bayler, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, 202-755-9384.

Supplementary information: Section 502(b) of the Motor Vehicle Information and Cost Savings Act ("the Act"), 15 U.S.C. 2002(b), requires the Secretary of Transportation to establish average fuel economy standards for light trucks manufactured in each model year beginning with 1979. That provision also authorizes the Secretary to establish separate fuel economy standards for different classes of light trucks. The Secretary used this authority to establish separate 1979 standards for "4-wheel general utility vehicles" with a gross vehicle weight rating (GVWR) not greater than 6,000 lbs. and for "all other" light trucks in the same GVWR range. Manufacturers were, however, given the option of having all of their 6,000 lbs and under GVWR light trucks comply with the more stringent standard for "all other" light trucks, rather than complying separately with the two standards.

Different classes were established by the agency beginning with the 1980 model year. Separate standards were established for two- and four-wheel drive light trucks, and subclasses were established within those classes for captive import (i.e., trucks

manufactured abroad and sold through a domestic manufacturer's dealer network) and domestic light trucks. A separate standard was also established for "limited product line light trucks," i.e., those produced by companies whose light trucks employ exclusively engines which are not also used in passenger cars. The change in the light truck classification was made because of the simultaneous change in the applicability of the fuel economy standards to cover light trucks up to 8,500 pounds GVWR. The new classification system reflects the makeup of the larger fleets regulated in 1980 and the differences in the fuel economy improvement potential of the principal types of light trucks in that fleet. See discussion of this classification system in 42 FR 63185-7, December 15, 1977.

Compliance with fuel economy standards is determined on the basis of the production-weighted average of the fuel economy ratings of all the vehicles subject to a standard in a given model year. The enforcement provisions of the Act extend this averaging concept to compliance determinations for different model years. Civil penalties for violating a standard applicable to a class of light trucks in a model year are assessed at the rate of five dollars per vehicle for each tenth of a mile-per-gallon by which the average fuel economy of a manufacturer's vehicles subject to the standard falls short of that standard. Monetary credits for exceeding a standard are earned at the same rate. These credits may be applied to offset civil penalties which are assessed either in the immediately preceding or following model year. See section 508 of the Act.

A key limitation with respect to the carrying backward or forward of credits is that "any credit . . . may only be applied to automobiles of the same class for which the credit was earned." See Conference Report on the Act, H.R. Rep. No. 94-700, 94th cong., 1st Sess. 159 (1975), and section

508(a)(3) of the Act. It appears that this requirement is intended to prevent manufacturers from defeating the purpose of a classification system by applying credits earned for trucks in one class against penalties for violating the standard in another class; rather, each class of trucks is expected to comply with standards (at least on average over a period of years) or be penalized. However, the requirements of section 508, as elaborated in the Conference Report, could be read to prohibit the manufacturers from using earned credits simply because the agency decides to change the boundaries of existing classes. Therefore, the agency sought comment on how the requirement that credits be transferred only within classes should be applied where the agency changed truck classifications, as it did between 1979 and 1980. See the agency's notice of proposed rulemaking on the 1980-81 light truck fuel economy standards, 42 FR 63194, December 15, 1977.

Only the Center for Auto Safety and Ford Motor Company commented on the issue in response to the agency's request. The Center for Auto Safety argued that the requirement in the Act that credits must be applied only within a class is absolute, and only when a manufacturer's product offerings happen to coincide with the agency's new and old classes, so that the classes are in effect identical, could credits be transferred. Ford, on the other hand, argued that credits earned for vehicles in one class should be applicable to penalties in any class (in the prior or subsequent year) which overlaps with the former class. American Motors Corporation provided comments on the issue after the completion of the 1980-81 rulemaking. That company suggested that the 1979 "general utility vehicle" class and the 1980 four wheel drive class be treated as identical for purposes of applying credits; the same would be true for the 1979 standard for "all other" trucks and the 1980 two-wheel drive standard. American Motors proposed that credits be transferable only within these pairs of standards.

The agency interprets section 508 of the Act to require as much commonality as possible between classes in transferring credits, but not absolute identity. The intent of the Act is clearly to grant

credits for "over achievement" in a particular model year by a manufacturer, and it would frustrate that intent if there were to be a forfeiture of credits when NHTSA decides to change the scope of classes.

In transferring credits earned in the 1979-80 model years, the agency will attempt to assure that those credits are applied to offset civil penalties on the same types of vehicles as those which generated the credits. This result will be pursued by pro-rating the earned credits according to the number of vehicles in the credit-earning class which would fall in the class subject to a civil penalty in the prior or subsequent year.

For example, in applying 1979 credits to 1980, credits earned by four-wheel drive general utility vehicles in 1979 would be applicable to any penalties assessed against domestic four-wheel drive light trucks or captive import four-wheel drive light trucks in 1980, with the amount applicable to each 1980 four-wheel drive class to be determined based on the portion of the 1979 utility vehicles which is captive imports and the portion which is domestic. If all 1979 utility vehicles were domestic, 1979 credits for that class of light truck would be applicable only to domestic four-wheel drive light trucks in 1980.

Similarly, in applying 1980 credits to 1979, credits earned by 1980 four-wheel drive captive import trucks would be divided according to the proportion of those trucks which meet the definition of 4-wheel drive general utility vehicle and credits would be assigned on a pro-rata basis to the two 1979 truck classes, if either 1979 standard were violated. If the manufacturer elected to comply with the single, combined 1979 standard, then all credits earned by 1980 trucks would be applicable to 1979 civil penalties. These assignments of credits would be made without regard to the gross vehicle weight ratings of affected vehicles, since none of the affected truck classifications depend on GVWR.

Issued on November 1, 1979.

Frank Berndt
Chief Counsel

44 F.R. 64943
November 8, 1979

Notice of Interpretation

(Docket No. FE 79-01; Notice 1)

Summary: This notice announces the agency's interpretation of the extent to which the law permits, with respect to 1979 and 1980, monetary credits earned by manufacturers of light trucks for exceeding fuel economy standards in one year to be applied to civil penalty liabilities for violating those standards in the other year. This interpretation is being issued at the request of several manufacturers to assist them in planning compliance with light truck fuel economy standards.

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Supplementary information: Section 502(b) of the Motor Vehicle Information and Cost Savings Act ("the Act"), 15 U.S.C. 2002(b), requires the Secretary of Transportation to establish average fuel economy standards for light trucks manufactured in each model year beginning with 1979. That provision also authorizes the Secretary to establish separate fuel economy standards for different classes of light trucks. The Secretary used this authority to establish separate 1979 standards for "4-wheel general utility vehicles" with a gross vehicle weight rating (GVWR) not greater than 6,000 lbs. and for "all other" light trucks in the same GVWR range. Manufacturers were, however, given the option of having all of their 6,000 lbs and under GVWR light trucks comply with the more stringent standard for "all other" light trucks, rather than complying separately with the two standards.

Different classes were established by the agency beginning with the 1980 model year. Separate standards were established for two- and four-wheel drive light trucks, and subclasses were established within those classes for captive import (i.e., trucks

manufactured abroad and sold through a domestic manufacturer's dealer network) and domestic light trucks. A separate standard was also established for "limited product line light trucks," i.e., those produced by companies whose light trucks employ exclusively engines which are not also used in passenger cars. The change in the light truck classification was made because of the simultaneous change in the applicability of the fuel economy standards to cover light trucks up to 8,500 pounds GVWR. The new classification system reflects the makeup of the larger fleets regulated in 1980 and the differences in the fuel economy improvement potential of the principal types of light trucks in that fleet. See discussion of this classification system in 42 FR 63185-7, December 15, 1977.

Compliance with fuel economy standards is determined on the basis of the production-weighted average of the fuel economy ratings of all the vehicles subject to a standard in a given model year. The enforcement provisions of the Act extend this averaging concept to compliance determinations for different model years. Civil penalties for violating a standard applicable to a class of light trucks in a model year are assessed at the rate of five dollars per vehicle for each tenth of a mile-per-gallon by which the average fuel economy of a manufacturer's vehicles subject to the standard falls short of that standard. Monetary credits for exceeding a standard are earned at the same rate. These credits may be applied to offset civil penalties which are assessed either in the immediately preceding or following model year. See section 508 of the Act.

A key limitation with respect to the carrying backward or forward of credits is that "any credit . . . may only be applied to automobiles of the same class for which the credit was earned." See Conference Report on the Act, H.R. Rep. No. 94-700, 94th cong., 1st Sess. 159 (1975), and section

508(a)(3) of the Act. It appears that this requirement is intended to prevent manufacturers from defeating the purpose of a classification system by applying credits earned for trucks in one class against penalties for violating the standard in another class; rather, each class of trucks is expected to comply with standards (at least on average over a period of years) or be penalized. However, the requirements of section 508, as elaborated in the Conference Report, could be read to prohibit the manufacturers from using earned credits simply because the agency decides to change the boundaries of existing classes. Therefore, the agency sought comment on how the requirement that credits be transferred only within classes should be applied where the agency changed truck classifications, as it did between 1979 and 1980. See the agency's notice of proposed rulemaking on the 1980-81 light truck fuel economy standards, 42 FR 63194, December 15, 1977.

Only the Center for Auto Safety and Ford Motor Company commented on the issue in response to the agency's request. The Center for Auto Safety argued that the requirement in the Act that credits must be applied only within a class is absolute, and only when a manufacturer's product offerings happen to coincide with the agency's new and old classes, so that the classes are in effect identical, could credits be transferred. Ford, on the other hand, argued that credits earned for vehicles in one class should be applicable to penalties in any class (in the prior or subsequent year) which overlaps with the former class. American Motors Corporation provided comments on the issue after the completion of the 1980-81 rulemaking. That company suggested that the 1979 "general utility vehicle" class and the 1980 four wheel drive class be treated as identical for purposes of applying credits; the same would be true for the 1979 standard for "all other" trucks and the 1980 two-wheel drive standard. American Motors proposed that credits be transferable only within these pairs of standards.

The agency interprets section 508 of the Act to require as much commonality as possible between classes in transferring credits, but not absolute identity. The intent of the Act is clearly to grant

credits for "over achievement" in a particular model year by a manufacturer, and it would frustrate that intent if there were to be a forfeiture of credits when NHTSA decides to change the scope of classes.

In transferring credits earned in the 1979-80 model years, the agency will attempt to assure that those credits are applied to offset civil penalties on the same types of vehicles as those which generated the credits. This result will be pursued by pro-rating the earned credits according to the number of vehicles in the credit-earning class which would fall in the class subject to a civil penalty in the prior or subsequent year.

For example, in applying 1979 credits to 1980, credits earned by four-wheel drive general utility vehicles in 1979 would be applicable to any penalties assessed against domestic four-wheel drive light trucks or captive import four-wheel drive light trucks in 1980, with the amount applicable to each 1980 four-wheel drive class to be determined based on the portion of the 1979 utility vehicles which is captive imports and the portion which is domestic. If all 1979 utility vehicles were domestic, 1979 credits for that class of light truck would be applicable only to domestic four-wheel drive light trucks in 1980.

Similarly, in applying 1980 credits to 1979, credits earned by 1980 four-wheel drive captive import trucks would be divided according to the proportion of those trucks which meet the definition of 4-wheel drive general utility vehicle and credits would be assigned on a pro-rata basis to the two 1979 truck classes, if either 1979 standard were violated. If the manufacturer elected to comply with the single, combined 1979 standard, then all credits earned by 1980 trucks would be applicable to 1979 civil penalties. These assignments of credits would be made without regard to the gross vehicle weight ratings of affected vehicles, since none of the affected truck classifications depend on GVWR.

Issued on November 1, 1979.

Frank Berndt
Chief Counsel

44 F.R. 64943
November 8, 1979

PREAMBLE TO PART 535—THREE-YEAR CARRY FORWARD AND CARRYBACK FOR MANUFACTURERS OF LIGHT TRUCKS

(Docket No. FE 80-02; Notice 1)

ACTION: Final rule.

SUMMARY: This notice establishes regulations governing the transfer between model years of monetary credits earned by motor vehicle manufacturers for exceeding the average fuel economy standards for light trucks. Manufacturers have previously been able to apply credits to the year immediately preceding and to the year immediately following the year in which they are earned. Section 6(b) of the Automobile Fuel Efficiency Act of 1980 amended section 502 of the Motor Vehicle Information and Cost Savings Act to extend the number of years over which manufacturers can carry back or forward credits from one to three years. These regulations are promulgated pursuant to the Efficiency Act's direction that implementing regulations be issued not later than 60 days after the date of enactment. The provisions in these regulations are in almost all respects identical to the provisions in the statute for passenger automobile credits.

DATES: These regulations are effective upon publication in the *Federal Register*.

FOR FURTHER INFORMATION CONTACT:

Mr. Edward Glancy, Office of Chief Counsel,
National Highway Traffic Safety
Administration, 400 Seventh Street, S.W.,
Washington, D.C. 20590 (202-426-2992)

SUPPLEMENTARY INFORMATION: Title V of the Motor Vehicle Information and Cost Savings Act establishes a program to improve automotive efficiency and conserve energy. Under that title, average (i.e., fleet) fuel economy standards are established for passenger automobiles and for light trucks. To discourage noncompliance with the standards and encourage exceeding the

standards, the title provides a system of penalties and credits. Penalties are assessed against manufacturers which fail to comply with applicable fuel economy standards. The penalties are assessed at a rate of \$5 per vehicle for each tenth of a mile-per-gallon by which the average fuel economy of a manufacturer's vehicles subject to a standard falls short of that standard. Monetary credits for exceeding the standards are earned at the same rate. This rate may be increased to up to \$10 per tenth of a mile per gallon if the agency makes certain findings about the existence of substantial energy savings resulting from the change and the absence of any resulting adverse impacts. See section 508(d) of the Act. Under the law as originally enacted, credits earned in one year may be used to offset civil penalties in the immediately prior year, and, if excess credits remain, in the immediately subsequent year.

The Automobile Fuel Efficiency Act of 1980, signed into law on October 12, 1980, amended title V to make several changes relating to the earning and application of credits. One amendment increased the number of years that credits may be carried backward or forward to offset penalties from one to three years. That and another amendment provided that a manufacturer which fails to meet a fuel economy standard in a particular year will not be regarded as having engaged in unlawful conduct or be subject to civil penalties under either of two circumstances. The first circumstance occurs if the manufacturer had previously earned sufficient credits to offset the penalty. Second, a manufacturer could achieve the same result if it submits to the agency an acceptable plan for earning in the subsequent three years sufficient credits to offset the penalty and if the manufacturer actually earns those credits.

While section 502 of the Act, as amended, sets forth detailed provisions for the three-year carry-back and carryforward of credits by passenger

automobile manufacturers, that section simply provides with respect to light trucks that credits for light truck manufacturers are to be earned and available to be taken into account "to the same extent and in the same manner" as provided for passenger automobile manufacturers. Section 502(1)(2) requires that regulations governing light truck credits be promulgated not later than 60 days after the enactment of the Efficiency Act. Thus, the regulations must be issued by December 9, 1980.

With one exception discussed below, the provisions in these regulations are essentially identical to the provisions in the statute regarding passenger automobile credits. As in the case of passenger automobile credits, the light truck credits are available first to be applied to the three years immediately preceding the year in which they are earned. Any residual amount of credits is then available to be applied to the three model years immediately following the year in which the credits are earned. In any year in which a manufacturer believes that its average fuel economy will not meet an applicable light truck fuel economy standard, the manufacturer may submit a plan demonstrating that it will earn sufficient credits in the next three years which when taken into account would allow the manufacturer to meet that standard. The NHTSA Administrator will approve any such plan unless the Administrator finds that it is unlikely that the plan will result in the manufacturer's earning sufficient credits to allow the manufacturer to meet the standard for the model year involved.

The difference mentioned above between the provisions for passenger automobile credits and those for light truck credits arises from differences in the way in which the statute treats passenger automobiles and light trucks. Special provision must be made for light truck credits since light truck fuel economy standards may be set for all light trucks together or for classes of light trucks while class standards cannot be set for passenger automobiles. Title V and its history provide that credits may not be applied across classes of light trucks. That is, credits earned for one class of light trucks may not be applied to offset penalties incurred for another class of light trucks. (See Conference Report on the Energy Policy and Conservation Act, H.R. Rep. No. 94-700, 94th Cong., 1st Sess. 159 (1975).) The prohibition against

cross-class application of credits was previously discussed in a notice of interpretation published by the agency on November 8, 1979 (44 FR 64943).

This notice also reaffirms the policy set forth in the November 1979 notice of interpretation regarding transfer of credits by a manufacturer between a year in which the manufacturer complies with a single fuel economy standard applicable to all light trucks and a year in which it complies with several standards for different classes of light trucks. After seeking comments on the issue, the agency stated in its November 1979 notice that its policy would be to attempt to assure that credits are applied to offset civil penalties on the same types of light trucks as those which generated the credits. The notice stated that credits would be prorated according to the number of light trucks in the credit-earning class which would fall in the class subject to a civil penalty. The several examples given in that notice to illustrate the application of this procedure are still appropriate. Additional examples are set forth below to illustrate how this procedure will be applied in light of the manufacturers' choice in model years 1983-85 to comply with either a single standard for all light trucks or with optional separate standards for two-wheel drive (4x2) and four-wheel drive (4x4) light trucks.

For model years 1980-82, the agency established separate standards for 4x2 and 4x4 light trucks. Manufacturers are required to comply with those separate standards and do not have the choice of complying with a single standard. For model years 1983-85, however, the agency established a single combined standard for 4x2 and 4x4 light trucks, while giving manufacturers the choice of complying with optional separate standards.

If a manufacturer elects to comply with the optional separate standards for model year 1983, no prorating will be necessary since the classes for model years 1980-82 are identical to those in model years 1983-85 (except for limited product line manufacturers). Thus, credits earned by exceeding the 4x2 standard for model year 1982 could be fully applied against a failure to comply with the model year 1983 standard for those vehicles.

If a manufacturer elects to comply with the single, combined standard for 1983 and earns credits by exceeding that standard, application of those credits for failure to meet a standard in any of model years 1980-82 would require prorating.

PREAMBLE TO PART 535—THREE-YEAR CARRY FORWARD AND CARRYBACK FOR MANUFACTURERS OF LIGHT TRUCKS

(Docket No. FE 80-02; Notice 1)

ACTION: Final rule.

SUMMARY: This notice establishes regulations governing the transfer between model years of monetary credits earned by motor vehicle manufacturers for exceeding the average fuel economy standards for light trucks. Manufacturers have previously been able to apply credits to the year immediately preceding and to the year immediately following the year in which they are earned. Section 6(b) of the Automobile Fuel Efficiency Act of 1980 amended section 502 of the Motor Vehicle Information and Cost Savings Act to extend the number of years over which manufacturers can carry back or forward credits from one to three years. These regulations are promulgated pursuant to the Efficiency Act's direction that implementing regulations be issued not later than 60 days after the date of enactment. The provisions in these regulations are in almost all respects identical to the provisions in the statute for passenger automobile credits.

DATES: These regulations are effective upon publication in the *Federal Register*.

FOR FURTHER INFORMATION CONTACT:

Mr. Edward Glancy, Office of Chief Counsel,
National Highway Traffic Safety
Administration, 400 Seventh Street, S.W.,
Washington, D.C. 20590 (202-426-2992)

SUPPLEMENTARY INFORMATION: Title V of the Motor Vehicle Information and Cost Savings Act establishes a program to improve automotive efficiency and conserve energy. Under that title, average (i.e., fleet) fuel economy standards are established for passenger automobiles and for light trucks. To discourage noncompliance with the standards and encourage exceeding the

standards, the title provides a system of penalties and credits. Penalties are assessed against manufacturers which fail to comply with applicable fuel economy standards. The penalties are assessed at a rate of \$5 per vehicle for each tenth of a mile-per-gallon by which the average fuel economy of a manufacturer's vehicles subject to a standard falls short of that standard. Monetary credits for exceeding the standards are earned at the same rate. This rate may be increased to up to \$10 per tenth of a mile per gallon if the agency makes certain findings about the existence of substantial energy savings resulting from the change and the absence of any resulting adverse impacts. See section 508(d) of the Act. Under the law as originally enacted, credits earned in one year may be used to offset civil penalties in the immediately prior year, and, if excess credits remain, in the immediately subsequent year.

The Automobile Fuel Efficiency Act of 1980, signed into law on October 12, 1980, amended title V to make several changes relating to the earning and application of credits. One amendment increased the number of years that credits may be carried backward or forward to offset penalties from one to three years. That and another amendment provided that a manufacturer which fails to meet a fuel economy standard in a particular year will not be regarded as having engaged in unlawful conduct or be subject to civil penalties under either of two circumstances. The first circumstance occurs if the manufacturer had previously earned sufficient credits to offset the penalty. Second, a manufacturer could achieve the same result if it submits to the agency an acceptable plan for earning in the subsequent three years sufficient credits to offset the penalty and if the manufacturer actually earns those credits.

While section 502 of the Act, as amended, sets forth detailed provisions for the three-year carry-back and carryforward of credits by passenger

automobile manufacturers, that section simply provides with respect to light trucks that credits for light truck manufacturers are to be earned and available to be taken into account "to the same extent and in the same manner" as provided for passenger automobile manufacturers. Section 502(1)(2) requires that regulations governing light truck credits be promulgated not later than 60 days after the enactment of the Efficiency Act. Thus, the regulations must be issued by December 9, 1980.

With one exception discussed below, the provisions in these regulations are essentially identical to the provisions in the statute regarding passenger automobile credits. As in the case of passenger automobile credits, the light truck credits are available first to be applied to the three years immediately preceding the year in which they are earned. Any residual amount of credits is then available to be applied to the three model years immediately following the year in which the credits are earned. In any year in which a manufacturer believes that its average fuel economy will not meet an applicable light truck fuel economy standard, the manufacturer may submit a plan demonstrating that it will earn sufficient credits in the next three years which when taken into account would allow the manufacturer to meet that standard. The NHTSA Administrator will approve any such plan unless the Administrator finds that it is unlikely that the plan will result in the manufacturer's earning sufficient credits to allow the manufacturer to meet the standard for the model year involved.

The difference mentioned above between the provisions for passenger automobile credits and those for light truck credits arises from differences in the way in which the statute treats passenger automobiles and light trucks. Special provision must be made for light truck credits since light truck fuel economy standards may be set for all light trucks together or for classes of light trucks while class standards cannot be set for passenger automobiles. Title V and its history provide that credits may not be applied across classes of light trucks. That is, credits earned for one class of light trucks may not be applied to offset penalties incurred for another class of light trucks. (See Conference Report on the Energy Policy and Conservation Act, H.R. Rep. No. 94-700, 94th Cong., 1st Sess. 159 (1975).) The prohibition against

cross-class application of credits was previously discussed in a notice of interpretation published by the agency on November 8, 1979 (44 FR 64943).

This notice also reaffirms the policy set forth in the November 1979 notice of interpretation regarding transfer of credits by a manufacturer between a year in which the manufacturer complies with a single fuel economy standard applicable to all light trucks and a year in which it complies with several standards for different classes of light trucks. After seeking comments on the issue, the agency stated in its November 1979 notice that its policy would be to attempt to assure that credits are applied to offset civil penalties on the same types of light trucks as those which generated the credits. The notice stated that credits would be prorated according to the number of light trucks in the credit-earning class which would fall in the class subject to a civil penalty. The several examples given in that notice to illustrate the application of this procedure are still appropriate. Additional examples are set forth below to illustrate how this procedure will be applied in light of the manufacturers' choice in model years 1983-85 to comply with either a single standard for all light trucks or with optional separate standards for two-wheel drive (4x2) and four-wheel drive (4x4) light trucks.

For model years 1980-82, the agency established separate standards for 4x2 and 4x4 light trucks. Manufacturers are required to comply with those separate standards and do not have the choice of complying with a single standard. For model years 1983-85, however, the agency established a single combined standard for 4x2 and 4x4 light trucks, while giving manufacturers the choice of complying with optional separate standards.

If a manufacturer elects to comply with the optional separate standards for model year 1983, no prorating will be necessary since the classes for model years 1980-82 are identical to those in model years 1983-85 (except for limited product line manufacturers). Thus, credits earned by exceeding the 4x2 standard for model year 1982 could be fully applied against a failure to comply with the model year 1983 standard for those vehicles.

If a manufacturer elects to comply with the single, combined standard for 1983 and earns credits by exceeding that standard, application of those credits for failure to meet a standard in any of model years 1980-82 would require prorating.

The agency would prorate the model year 1983 credits according to the proportion of model year 1983 light trucks that are of the same type as the class whose standard was not met. Thus, if the manufacturer did not comply with the model year 1982 standard for 4x2 light trucks and 70 percent of the model year 1983 light trucks were 4x2, then 70 percent of the credits earned in model year 1983 could be applied against the penalty for that non-compliance.

Finally, if a manufacturer earns credits for exceeding any of the model year 1980-82 class standards and the manufacturer elects to comply with the single, combined standard for 1983, all credits earned by exceeding either or both of the separate standards for model years 1980-82 would be applicable to penalties incurred in model year 1983.

This notice is being issued without notice and comment for a variety of reasons. The requirement that the regulations be issued by December 9 made it impracticable in the agency's judgment to provide notice and opportunity for comment. The

agency also finds that making such provision is unnecessary since the regulations are in almost all respects identical to the statute. Finally, this rule is exempted as an interpretative rule from the statutory requirements for notice and comment.

This final rule is being made effective upon publication in the *Federal Register*. The usual requirement for a 30-day delay in the effective date is not applicable as this is an interpretative rule.

In consideration of the foregoing, Part 535 is added to 49 CFR Chapter V.

Issued on December 9, 1980.

Joan Claybrook
Administrator

45 FR 83233
December 18, 1980

The agency would prorate the model year 1983 credits according to the proportion of model year 1983 light trucks that are of the same type as the class whose standard was not met. Thus, if the manufacturer did not comply with the model year 1982 standard for 4x2 light trucks and 70 percent of the model year 1983 light trucks were 4x2, then 70 percent of the credits earned in model year 1983 could be applied against the penalty for that non-compliance.

Finally, if a manufacturer earns credits for exceeding any of the model year 1980-82 class standards and the manufacturer elects to comply with the single, combined standard for 1983, all credits earned by exceeding either or both of the separate standards for model years 1980-82 would be applicable to penalties incurred in model year 1983.

This notice is being issued without notice and comment for a variety of reasons. The requirement that the regulations be issued by December 9 made it impracticable in the agency's judgment to provide notice and opportunity for comment. The

agency also finds that making such provision is unnecessary since the regulations are in almost all respects identical to the statute. Finally, this rule is exempted as an interpretative rule from the statutory requirements for notice and comment.

This final rule is being made effective upon publication in the *Federal Register*. The usual requirement for a 30-day delay in the effective date is not applicable as this is an interpretative rule.

In consideration of the foregoing, Part 535 is added to 49 CFR Chapter V.

Issued on December 9, 1980.

Joan Claybrook
Administrator

45 FR 83233
December 18, 1980

PART 535—THREE-YEAR CARRYFORWARD AND CARRYBACK OF CREDITS FOR LIGHT TRUCKS

Section

535.1 Scope.

535.2 Applicability.

535.3 Definitions.

535.4 3-year carryforward and carryback of credits.

AUTHORITY: Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); Sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2001); Sec. 6, Pub. L. 96-425, _____ Stat. _____ (15 U.S.C. 2002); delegation of authority at 49 CFR 1.50.

§ 535.1 Scope.

This part establishes requirements for governing 3-year carryforward and carryback of credits for manufacturers of light trucks.

§ 535.2 Applicability.

This part applies to manufacturers of light trucks.

§ 535.3 Definitions.

(a) *Statutory terms.* The terms “average fuel economy,” “average fuel economy standard,” “fuel economy,” “manufacture,” “manufacturer,” and “model year” are used as defined in section 501 of the Act.

(b) *Other terms.* (1) “Act” means the Motor Vehicle Information and Cost Savings Act, as amended by Pub. L. 94-163 and 96-425.

(2) “Administrator” means the Administrator of the National Highway Traffic Safety Administration.

(3) The term “light truck” is used in accordance with the determinations in Parts 523 and 533 of this chapter.

(4) The term “class of light trucks” is used in accordance with the determinations in Part 533 of this chapter.

§ 535.4 3-year carryforward and carryback of credits.

(a) For purposes of this part, credits under this section shall be considered to be available to any manufacturer upon the completion of the model year which such credits are earned under paragraph (b) unless under paragraph (c) the credits are made available for use at a time prior to the model year in which earned.

(b) Whenever the average fuel economy for a class of light trucks manufactured by a manufacturer in a particular model year exceeds an applicable average fuel economy standard established in Part 533 of this chapter, such manufacturer shall be entitled to credit, calculated under paragraph (c), which—

(1) Shall be available to be taken into account with respect to the average fuel economy for the same class of light trucks of that manufacturer for any of the 3 consecutive model years immediately prior to the model year in which such manufacturer exceeds such applicable average fuel economy standard, and

(2) To the extent that such credit is not so taken into account pursuant to paragraph (b)(1) of this section, shall be available to be taken into account with respect to the average fuel economy standard.

(c)(1) At any time prior to the end of any model year, a manufacturer which has reason to believe that its average fuel economy for a class of light trucks will be below such applicable standard for the model year may submit a plan demonstrating that such manufacturer will earn sufficient credits under paragraph (b) within the next 3 model years which when taken into account would allow the manufacturer to meet that standard for the model year involved.

(2) Such credits shall be available for the model year involved subject to—

(i) the Administrator approving such plan; and

(ii) the manufacturer earning credits in accordance with such plan.

(3) The Administrator approves any such plan unless the Administrator finds that it is unlikely that the plan will result in the manufacturer earning sufficient credits to allow the manufacturer to meet the standard for the model year involved.

(4) The Administrator provides notice to any manufacturer in any case in which the average fuel economy of that manufacturer is below the applicable standard under Part 533 of this chapter, after taking into account credits available under paragraph (b)(1), and affords the manufacturer a reasonable period (of not less than 60 days) in which to submit a plan under this paragraph.

(d) The amount of credit to which a manufacturer is entitled under this section shall be equal to—

(1) the number of tenths of a mile per gallon by which the average fuel economy for a class of light trucks manufactured by such manufacturer in the model year in which the credit is earned pursuant to this section exceeds the applicable average fuel economy standard established in Part 533 of this Chapter, multiplied by

(2) the total number of light trucks in that class manufactured by such manufacturer during such model year.

(e) The Administrator takes credits into account for any model year on the basis of the number of tenths of a mile per gallon by which the manufacturer involved was below an applicable average fuel economy standard for a class of light trucks for the model year and the volume of that class of light trucks manufactured that model year by the manufacturer. Credits may not be applied between classes of light trucks, except as determined by the Administrator to account for changes made in the definitions of classes between model years. Credits once taken into account for any model year shall not thereafter be available for any other model year. Prior to taking any credit into account, the Administrator provides the manufacturer involved with written notice and reasonable opportunity to comment thereon.

45 F.R. 83233
December 18, 1980

PART 535—THREE-YEAR CARRYFORWARD AND CARRYBACK OF CREDITS FOR LIGHT TRUCKS

Section

535.1 Scope.

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535.4 3-year carryforward and carryback of credits.

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(a) *Statutory terms.* The terms "average fuel economy," "average fuel economy standard," "fuel economy," "manufacture," "manufacturer," and "model year" are used as defined in section 501 of the Act.

(b) *Other terms.* (1) "Act" means the Motor Vehicle Information and Cost Savings Act, as amended by Pub. L. 94-163 and 96-425.

(2) "Administrator" means the Administrator of the National Highway Traffic Safety Administration.

(3) The term "light truck" is used in accordance with the determinations in Parts 523 and 533 of this chapter.

(4) The term "class of light trucks" is used in accordance with the determinations in Part 533 of this chapter.

§ 535.4 3-year carryforward and carryback of credits.

(a) For purposes of this part, credits under this section shall be considered to be available to any manufacturer upon the completion of the model year which such credits are earned under paragraph (b) unless under paragraph (c) the credits are made available for use at a time prior to the model year in which earned.

(b) Whenever the average fuel economy for a class of light trucks manufactured by a manufacturer in a particular model year exceeds an applicable average fuel economy standard established in Part 533 of this chapter, such manufacturer shall be entitled to credit, calculated under paragraph (c), which—

(1) Shall be available to be taken into account with respect to the average fuel economy for the same class of light trucks of that manufacturer for any of the 3 consecutive model years immediately prior to the model year in which such manufacturer exceeds such applicable average fuel economy standard, and

(2) To the extent that such credit is not so taken into account pursuant to paragraph (b)(1) of this section, shall be available to be taken into account with respect to the average fuel economy standard.

(c)(1) At any time prior to the end of any model year, a manufacturer which has reason to believe that its average fuel economy for a class of light trucks will be below such applicable standard for the model year may submit a plan demonstrating that such manufacturer will earn sufficient credits under paragraph (b) within the next 3 model years which when taken into account would allow the manufacturer to meet that standard for the model year involved.

(2) Such credits shall be available for the model year involved subject to—

(i) the Administrator approving such plan; and

(ii) the manufacturer earning credits in accordance with such plan.

(3) The Administrator approves any such plan unless the Administrator finds that it is unlikely that the plan will result in the manufacturer earning sufficient credits to allow the manufacturer to meet the standard for the model year involved.

(4) The Administrator provides notice to any manufacturer in any case in which the average fuel economy of that manufacturer is below the applicable standard under Part 533 of this chapter, after taking into account credits available under paragraph (b)(1), and affords the manufacturer a reasonable period (of not less than 60 days) in which to submit a plan under this paragraph.

(d) The amount of credit to which a manufacturer is entitled under this section shall be equal to—

(1) the number of tenths of a mile per gallon by which the average fuel economy for a class of light trucks manufactured by such manufacturer in the model year in which the credit is earned pursuant to this section exceeds the applicable average fuel economy standard established in Part 533 of this Chapter, multiplied by

(2) the total number of light trucks in that class manufactured by such manufacturer during such model year.

(e) The Administrator takes credits into account for any model year on the basis of the number of tenths of a mile per gallon by which the manufacturer involved was below an applicable average fuel economy standard for a class of light trucks for the model year and the volume of that class of light trucks manufactured that model year by the manufacturer. Credits may not be applied between classes of light trucks, except as determined by the Administrator to account for changes made in the definitions of classes between model years. Credits once taken into account for any model year shall not thereafter be available for any other model year. Prior to taking any credit into account, the Administrator provides the manufacturer involved with written notice and reasonable opportunity to comment thereon.

45 F.R. 83233

December 18, 1980

PREAMBLE TO PART 537—AUTOMOTIVE FUEL ECONOMY REPORTS

(Docket No. FE 77-03; Notice 2)

This rule establishes the format and content requirements for semiannual reports on fuel economy to be submitted to the National Highway Traffic Safety Administration by automobile manufacturers. Section 505 of the Motor Vehicle Information and Cost Savings Act requires manufacturers to submit semiannual reports on whether and how they will comply with applicable average fuel economy standards and requires the Secretary of Transportation to promulgate rules governing those reports. Section 505 also authorizes the Secretary to require such reports as are necessary to enable him to implement the fuel economy provisions of the Act. This rule is intended primarily to satisfy the requirement for semiannual compliance reports. The reports are also necessary to enable the agency to prepare certain aspects of a statutorily required annual report to Congress regarding the fuel economy standards.

Effective date: December 12, 1977.

For further information contact:

Steve Kratzke
Office of Chief Counsel
National Highway Traffic Safety
Administration
Washington, D.C. 20590
202-426-2992

Supplementary information:

Background information.

The National Highway Traffic Safety Administration (NHTSA) is establishing the format and content requirements for the semiannual automotive fuel economy reports to be submitted by all manufacturers of automobiles beginning with the 1978 model year. The requirements for these reports will appear in a new Part 537,

added to NHTSA regulations in Title 49 of the Code of Federal Regulations by this action. This rule is issued pursuant to section 505(a) and (c) of Title V of the Motor Vehicle Information and Cost Savings Act, as amended ("the Act"). Authority to implement Title V was delegated by the Secretary of Transportation to the Administrator of NHTSA in a notice published on June 22, 1976, 41 FR 25015.

This final rule was preceded by a notice of proposed rulemaking ("NPRM") published April 11, 1977, at 42 FR 18867. The proposed rule would have required the manufacturers to report information on their automobiles produced in the current model year and on their automobiles that the manufacturers plan to produce in future model years, i.e., the five model years following the current model year. Most of the current model year information was intended to meet the requirement in section 505(a) for the manufacturers to submit semiannual compliance reports to the agency. The future model year data were intended to be used by the NHTSA primarily in establishing and amending future average fuel economy standards to meet the urgent national need for energy conservation and secondarily in evaluating future fuel economy standards for the purposes of preparing the annual reviews which section 502(a)(2) of the Act requires to be submitted to Congress. These data would offset the incompleteness of the manufacturers' voluntary submissions to the agency. A typical shortcoming is that the manufacturers tend to discuss their plans instead of their capabilities.

All comments to the NPRM were considered in developing this final rule. The major issues which have been raised, and their resolution, are described in the following discussion.

Summary of major differences between the proposed and final rules.

The portion of the proposed rules adopted by this notice is almost unchanged except for clarifying and narrowing changes. The major differences between the proposed and final rules are stated below.

(1) The 1978 pre-model year report is required to contain only the following information relating to passenger automobiles: the manufacturer's projected average fuel economy and views on the representativeness of the projection; model type fuel economy information; certain vehicle configuration technical information; and a general discussion of the manufacturer's marketing measures.

(2) The final rule does not adopt the proposed requirements for submitting current model year information regarding vehicle acceleration graphs, reduction of total drive ratio, impact of other Federal standards on fuel economy, impacts of efforts to comply with average fuel economy standards on automobile performance, material composition, additional compliance efforts, costs, gross income and market share, and engine system combinations and fuel systems.

(3) The final rule does not adopt the proposed requirements for submitting future model year information. Under those requirements, the manufacturer would have submitted information regarding projected average fuel economy, model type fuel economy and technological information, current fuel economy technology, future fuel economy technology, automobile technology and sales mix changes, weight reduction, reduction of total drive ratio, technological differences between passenger and nonpassenger automobiles, marketing measures, additional compliance efforts, impact of other Federal automobile standards on fuel economy, impacts of efforts to comply with average fuel economy standards on automobile performance, availability of capital, manufacturing costs, shifts in consumer demand, and gross income and market share.

(4) Supplementary reports are required only from manufacturers which previously reported in a semiannual report that they would comply with the applicable average fuel economy standards and then find that they will fail to comply.

As proposed, the rule also required supplementary reports to be filed by manufacturers which previously reported that they would not comply with the standards and then find that the extent of their noncompliance will be greater than that reported and by manufacturers whose average fuel economy was just slightly above the standards and declining.

(5) The reporting responsibility for multistage automobiles has been assigned exclusively to the incomplete automobile manufacturers. The NPRM had proposed that the incomplete automobile manufacturer would always be required to report on its incomplete automobiles. It would have also required a report to be filed by an intermediate or final-stage manufacturer that exceeded certain maximum specifications for those multistage automobiles.

Scope and purpose of the reports.

Section 505(a) of the Act provides as follows:

(1) Each manufacturer shall submit a report to the Secretary during the 30-day period preceding the beginning of each model year after model year 1977, and during the 30-day period beginning on the 180th day of each model year. Each such report shall contain (A) a statement as to whether such manufacturer will comply with average fuel economy standards under section 502 applicable to the model year for which such report is made; (B) a plan which describes the steps the manufacturer has taken or intends to take in order to comply with such standards; and (C) such other information as the Secretary may require.

(2) Whenever a manufacturer determines that a plan submitted under paragraph (1) which he stated was sufficient to insure compliance with applicable average fuel economy standards is not sufficient to insure such compliance, he shall submit a report to the Secretary containing a revised plan which specifies any additional measures which such manufacturer intends to take in order to comply with such standards, and a statement as to whether such revised plan is sufficient to insure such compliance.

PREAMBLE TO PART 537—AUTOMOTIVE FUEL ECONOMY REPORTS

(Docket No. FE 77-03; Notice 2)

This rule establishes the format and content requirements for semiannual reports on fuel economy to be submitted to the National Highway Traffic Safety Administration by automobile manufacturers. Section 505 of the Motor Vehicle Information and Cost Savings Act requires manufacturers to submit semiannual reports on whether and how they will comply with applicable average fuel economy standards and requires the Secretary of Transportation to promulgate rules governing those reports. Section 505 also authorizes the Secretary to require such reports as are necessary to enable him to implement the fuel economy provisions of the Act. This rule is intended primarily to satisfy the requirement for semiannual compliance reports. The reports are also necessary to enable the agency to prepare certain aspects of a statutorily required annual report to Congress regarding the fuel economy standards.

Effective date: December 12, 1977.

For further information contact:

Steve Kratzke
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National Highway Traffic Safety
Administration
Washington, D.C. 20590
202-426-2992

Supplementary information:

Background information.

The National Highway Traffic Safety Administration (NHTSA) is establishing the format and content requirements for the semiannual automotive fuel economy reports to be submitted by all manufacturers of automobiles beginning with the 1978 model year. The requirements for these reports will appear in a new Part 537,

added to NHTSA regulations in Title 49 of the Code of Federal Regulations by this action. This rule is issued pursuant to section 505(a) and (c) of Title V of the Motor Vehicle Information and Cost Savings Act, as amended ("the Act"). Authority to implement Title V was delegated by the Secretary of Transportation to the Administrator of NHTSA in a notice published on June 22, 1976, 41 FR 25015.

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All comments to the NPRM were considered in developing this final rule. The major issues which have been raised, and their resolution, are described in the following discussion.

Summary of major differences between the proposed and final rules.

The portion of the proposed rules adopted by this notice is almost unchanged except for clarifying and narrowing changes. The major differences between the proposed and final rules are stated below.

(1) The 1978 pre-model year report is required to contain only the following information relating to passenger automobiles: the manufacturer's projected average fuel economy and views on the representativeness of the projection; model type fuel economy information; certain vehicle configuration technical information; and a general discussion of the manufacturer's marketing measures.

(2) The final rule does not adopt the proposed requirements for submitting current model year information regarding vehicle acceleration graphs, reduction of total drive ratio, impact of other Federal standards on fuel economy, impacts of efforts to comply with average fuel economy standards on automobile performance, material composition, additional compliance efforts, costs, gross income and market share, and engine system combinations and fuel systems.

(3) The final rule does not adopt the proposed requirements for submitting future model year information. Under those requirements, the manufacturer would have submitted information regarding projected average fuel economy, model type fuel economy and technological information, current fuel economy technology, future fuel economy technology, automobile technology and sales mix changes, weight reduction, reduction of total drive ratio, technological differences between passenger and nonpassenger automobiles, marketing measures, additional compliance efforts, impact of other Federal automobile standards on fuel economy, impacts of efforts to comply with average fuel economy standards on automobile performance, availability of capital, manufacturing costs, shifts in consumer demand, and gross income and market share.

(4) Supplementary reports are required only from manufacturers which previously reported in a semiannual report that they would comply with the applicable average fuel economy standards and then find that they will fail to comply.

As proposed, the rule also required supplementary reports to be filed by manufacturers which previously reported that they would not comply with the standards and then find that the extent of their noncompliance will be greater than that reported and by manufacturers whose average fuel economy was just slightly above the standards and declining.

(5) The reporting responsibility for multistage automobiles has been assigned exclusively to the incomplete automobile manufacturers. The NPRM had proposed that the incomplete automobile manufacturer would always be required to report on its incomplete automobiles. It would have also required a report to be filed by an intermediate or final-stage manufacturer that exceeded certain maximum specifications for those multistage automobiles.

Scope and purpose of the reports.

Section 505(a) of the Act provides as follows:

(1) Each manufacturer shall submit a report to the Secretary during the 30-day period preceding the beginning of each model year after model year 1977, and during the 30-day period beginning on the 180th day of each model year. Each such report shall contain (A) a statement as to whether such manufacturer will comply with average fuel economy standards under section 502 applicable to the model year for which such report is made; (B) a plan which describes the steps the manufacturer has taken or intends to take in order to comply with such standards; and (C) such other information as the Secretary may require.

(2) Whenever a manufacturer determines that a plan submitted under paragraph (1) which he stated was sufficient to insure compliance with applicable average fuel economy standards is not sufficient to insure such compliance, he shall submit a report to the Secretary containing a revised plan which specifies any additional measures which such manufacturer intends to take in order to comply with such standards, and a statement as to whether such revised plan is sufficient to insure such compliance.

(3) The Secretary shall prescribe rules setting forth the form and content of the reports required under paragraphs (1) and (2).

Section 505(c)(1) of the Act requires every manufacturer to establish and maintain such records, make such reports, conduct such tests, and provide such items and information as the NHTSA may, by rule, reasonably require to carry out its duties under Title V. Section 502(a)(2) requires the NHTSA to transmit to the Congress not later than January 15 of each year a review of the average fuel economy standards; section 502(a)(3), (b) and (c) requires the NHTSA to establish average fuel economy standards; and section 502(a)(4) and (f) gives the NHTSA the authority to amend average fuel economy standards.

Several commenters urged that the rule require reports with a limited scope and purpose. Volkswagen of America, Inc. ("Volkswagen"), commented that any manufacturer projecting compliance with the currently applicable average fuel economy standards should be exempted from providing any business or technological data in its reports. Chrysler Corporation ("Chrysler") and Ford Motor Company ("Ford") made essentially the same point, commenting that a manufacturer projecting compliance with the average fuel economy standards should only be required to report its projected average fuel economy and the fuel economy levels and projected production level for each model type.

These suggestions are inconsistent with the plain meaning of the language of section 505(a). Apparently, Chrysler and Ford believe that the fuel economy values and projected production levels for each base level constitute the manufacturer's plans for achieving compliance. The agency disagrees. The fuel economy information and projected production levels describe only the result the manufacturer hopes to achieve. Section 505(a)(1)(B) specifically requires that the report also include a description of the steps that the manufacturer has taken or will take to achieve that result. The "steps" that can be taken to improve average fuel economy and achieve compliance generally fall into two categories: (1) technology improvements and (2) shifts in the mix of models and options offered for sale. The

latter category includes the marketing measures undertaken to promote particular mix goals.

Further, the effective implementation of the fuel economy program requires that these semi-annual reports should also enable the Agency to monitor the degree of effort being made by the various manufacturers to improve their average fuel economy. This information is necessary for the agency and Congress to judge the sufficiency of the standards and statutory enforcement scheme, including the civil penalty formula, for obtaining improvements in average fuel economy. This information will also permit a comparison of the approaches being taken by the manufacturers to improve average fuel economy.

Applicability.

Mr. Andrew Pickens commented that the reporting requirements should only apply to manufacturers producing vehicles that use petroleum-based fuel.

This rule is applicable to only those manufacturers. Section 501(1) of the Act defines an "automobile" as "any 4-wheeled vehicle propelled by fuel . . ." Section 501(5) of the Act specifies:

The term "fuel" means gasoline and diesel oil. The Secretary may, by rule, include any other liquid fuel or any gaseous fuel within the meaning of the term "fuel" if he determines that such inclusion is consistent with the need of the Nation to conserve energy.

Since the NHTSA has not included any fuel other than gasoline or diesel oil within the definition of fuel, no change is necessary in the proposed applicability provision to accommodate Mr. Pickens' concern.

Three low-volume manufacturers, Rolls Royce Motors International ("Rolls Royce"), Avanti Motor Corporation ("Avanti"), and Checker Motors Corporation ("Checker"), all indicated that, because of their limited staffs and resources, and their small impact on industry average fuel economy, their reports should be limited in scope. A low-volume manufacturer is one that produces fewer than 10,000 passenger automobiles worldwide annually. See section 502(c) of the Act and 42 FR 38374, establishing 49 CFR 525. Only Checker made specific suggestions. It suggested that low-volume manufacturers not be required to provide data on marketing measures or addi-

tional compliance efforts, since low-volume manufacturers generally produce specialized vehicles with a limited number of vehicle configurations.

This agency has no authority to apply selectively the explicit reporting requirements of section 505(a)(1)(A) and (B); that is, (A) a statement whether that manufacturer will comply with the applicable average fuel economy standards and (B) that manufacturer's plan describing the steps it has taken or will take to comply with the standard. The statute expressly requires each manufacturer to comply with those requirements. Based on appropriate distinctions between different groups of manufacturers, NHTSA may selectively apply reporting requirements adopted under the authority of section 505(a)(1)(C) and (c).

As stated above, marketing measures are one of the steps that the manufacturer can take to improve its average fuel economy level. As such, they are required by section 505(a)(1)(B) to be described in each semiannual report filed under section 505(a). The agency notes further that the fewer configurations that a manufacturer has, the simpler that reporting the manufacturer's marketing plans will, in all likelihood, be.

The information on additional compliance efforts and costs is not required to be included in the reports of any manufacturer. Therefore, there is no need to consider whether low volume manufacturers should be afforded special treatment in providing such information.

The NPRM proposed to allocate reporting responsibilities among multistage automobile manufacturers depending upon which manufacturer of a multistage automobile had become the manufacturer for standards compliance purposes under Part 529. See 42 FR 38369, July 28, 1977, for the text of Part 529. There are three types of multistage automobile manufacturers. The incomplete automobile manufacturer is the manufacturer that assembles the frame and chassis structure, power train, steering system, suspension system, and braking system. An intermediate manufacturer is a manufacturer, other than the incomplete automobile manufacturer or final-stage manufacturer, which performs manufacturing operations on an incomplete automobile. The final-stage manufacturer is the manufacturer that completes the production of the multistage auto-

mobile except for addition of readily attachable components and minor finishing operations. Part 529 generally treats the incomplete automobile manufacturer as the manufacturer of the multistage automobile. However, in certain circumstances specified in Part 529, the intermediate or final-stage manufacturer can become the manufacturer for purposes of certain Title V requirements.

The NPRM proposed that when an intermediate or final-stage manufacturer became the manufacturer of a multistage automobile for standards compliance purposes, that manufacturer would share the reporting responsibilities with the incomplete automobile manufacturer. It was proposed further that the report by the intermediate or final-stage manufacturers be limited to the same information as low-volume manufacturers are required to provide. The reasoning behind the latter proposal was that, compared to the incomplete automobile manufacturer, the intermediate or final-stage manufacturer would have less knowledge about the specifications of the technological aspects of the incomplete automobile that most significantly affect fuel economy. Additionally, an intermediate or final-stage manufacturer would have a negligible engineering staff because of the small size and less technical nature of its manufacturing operation. Most of these manufacturers are small enough to be low volume manufacturers. No comments were received on this subject.

Upon further reflection, the NHTSA has determined that the reports filed by intermediate and final-stage manufacturers would be of very limited value to this agency. Exceeding the specifications would typically cause the fuel economy data and technological information in their reports to differ only slightly from the data and information already submitted for these automobiles by the incomplete automobile manufacturers.

Further, the reports would cover a very small number of automobiles, i.e., only those incomplete automobiles for which the intermediate and final-stage manufacturers had exceeded the maximum specifications. It is anticipated that these maximum specifications will very rarely be exceeded by the intermediate and final-stage manufacturers, since doing so would require these manufacturers to recertify the automobiles for compliance

(3) The Secretary shall prescribe rules setting forth the form and content of the reports required under paragraphs (1) and (2).

Section 505(c)(1) of the Act requires every manufacturer to establish and maintain such records, make such reports, conduct such tests, and provide such items and information as the NHTSA may, by rule, reasonably require to carry out its duties under Title V. Section 502(a)(2) requires the NHTSA to transmit to the Congress not later than January 15 of each year a review of the average fuel economy standards; section 502(a)(3), (b) and (c) requires the NHTSA to establish average fuel economy standards; and section 502(a)(4) and (f) gives the NHTSA the authority to amend average fuel economy standards.

Several commenters urged that the rule require reports with a limited scope and purpose. Volkswagen of America, Inc. ("Volkswagen"), commented that any manufacturer projecting compliance with the currently applicable average fuel economy standards should be exempted from providing any business or technological data in its reports. Chrysler Corporation ("Chrysler") and Ford Motor Company ("Ford") made essentially the same point, commenting that a manufacturer projecting compliance with the average fuel economy standards should only be required to report its projected average fuel economy and the fuel economy levels and projected production level for each model type.

These suggestions are inconsistent with the plain meaning of the language of section 505(a). Apparently, Chrysler and Ford believe that the fuel economy values and projected production levels for each base level constitute the manufacturer's plans for achieving compliance. The agency disagrees. The fuel economy information and projected production levels describe only the result the manufacturer hopes to achieve. Section 505(a)(1)(B) specifically requires that the report also include a description of the steps that the manufacturer has taken or will take to achieve that result. The "steps" that can be taken to improve average fuel economy and achieve compliance generally fall into two categories: (1) technology improvements and (2) shifts in the mix of models and options offered for sale. The

latter category includes the marketing measures undertaken to promote particular mix goals.

Further, the effective implementation of the fuel economy program requires that these semi-annual reports should also enable the Agency to monitor the degree of effort being made by the various manufacturers to improve their average fuel economy. This information is necessary for the agency and Congress to judge the sufficiency of the standards and statutory enforcement scheme, including the civil penalty formula, for obtaining improvements in average fuel economy. This information will also permit a comparison of the approaches being taken by the manufacturers to improve average fuel economy.

Applicability.

Mr. Andrew Pickens commented that the reporting requirements should only apply to manufacturers producing vehicles that use petroleum-based fuel.

This rule is applicable to only those manufacturers. Section 501(1) of the Act defines an "automobile" as "any 4-wheeled vehicle propelled by fuel . . ." Section 501(5) of the Act specifies:

The term "fuel" means gasoline and diesel oil. The Secretary may, by rule, include any other liquid fuel or any gaseous fuel within the meaning of the term "fuel" if he determines that such inclusion is consistent with the need of the Nation to conserve energy.

Since the NHTSA has not included any fuel other than gasoline or diesel oil within the definition of fuel, no change is necessary in the proposed applicability provision to accommodate Mr. Pickens' concern.

Three low-volume manufacturers, Rolls Royce Motors International ("Rolls Royce"), Avanti Motor Corporation ("Avanti"), and Checker Motors Corporation ("Checker"), all indicated that, because of their limited staffs and resources, and their small impact on industry average fuel economy, their reports should be limited in scope. A low-volume manufacturer is one that produces fewer than 10,000 passenger automobiles worldwide annually. See section 502(c) of the Act and 42 FR 38374, establishing 49 CFR 525. Only Checker made specific suggestions. It suggested that low-volume manufacturers not be required to provide data on marketing measures or addi-

tional compliance efforts, since low-volume manufacturers generally produce specialized vehicles with a limited number of vehicle configurations.

This agency has no authority to apply selectively the explicit reporting requirements of section 505(a)(1)(A) and (B); that is, (A) a statement whether that manufacturer will comply with the applicable average fuel economy standards and (B) that manufacturer's plan describing the steps it has taken or will take to comply with the standard. The statute expressly requires each manufacturer to comply with those requirements. Based on appropriate distinctions between different groups of manufacturers, NHTSA may selectively apply reporting requirements adopted under the authority of section 505(a)(1)(C) and (c).

As stated above, marketing measures are one of the steps that the manufacturer can take to improve its average fuel economy level. As such, they are required by section 505(a)(1)(B) to be described in each semiannual report filed under section 505(a). The agency notes further that the fewer configurations that a manufacturer has, the simpler that reporting the manufacturer's marketing plans will, in all likelihood, be.

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Further, the reports would cover a very small number of automobiles, i.e., only those incomplete automobiles for which the intermediate and final-stage manufacturers had exceeded the maximum specifications. It is anticipated that these maximum specifications will very rarely be exceeded by the intermediate and final-stage manufacturers, since doing so would require these manufacturers to recertify the automobiles for compliance

with the Clean Air Act and redetermine the fuel economy of the automobiles. These manufacturers would also be required to determine whether exceeding the weight maximum affected the automobiles' compliance with the Federal Motor Vehicle Safety Standards. This testing would be a relatively expensive process, particularly considering that these manufacturers would not have their own testing facilities available.

The agency is also mindful that the burden that would be imposed on the intermediate and final-stage manufacturers if they were required to prepare these reports would be greater relative to that imposed on larger manufacturers. As stated above, these manufacturers have a minimal engineering staff, if any.

After a reconsideration of all these factors, the NHTSA has determined under section 501(9) of the Act and Part 529 that the incomplete automobile manufacturer of a multistage automobile will always be considered its manufacturer for purposes of the Act's reporting requirements. This rule has been changed to provide that intermediate and final-stage manufacturers are not required to file reports.

The agency's re-examination of the implementation of this rule by multistage manufacturers has also resulted in several changes in the rule to facilitate the reports by the incomplete automobile manufacturer. The data in § 537.7(c) is generally required to be provided by model type. However, the incomplete automobile manufacturer does not always know what the model type of the multistage automobile will be when completed. Accordingly, the incomplete automobile manufacturer is required to provide the fuel economy information in § 537.7(c) and (e) by base level, rather than by model type. Further, the technical information in § 537.7(c)(4) (xviii)-(xxii) and (c)(5) requires knowledge of how the automobile will be completed, and, therefore, is not required to be provided by incomplete automobile manufacturers with respect to multistage automobiles.

Timing of the reports.

Section 505(a)(1) of the Act specifies the time periods during which semiannual reports for a model year must be submitted. The first report, called the "pre-model year report" in this rule,

must be submitted during the 30-day period immediately preceding the model year. The second report, the "mid-model year report," must be submitted during the 30-day period beginning on the 180th day of the model year.

Ford commented that the EPA has designated the date on which comparable class fuel economy ranges become available as the beginning of the model year in a notice published November 10, 1976, 41 FR 49752, at 49756. Ford did not clearly indicate the basis for its belief that that notice, which dealt with fuel economy labeling requirements, contained any designation of the model year. Nowhere in the preamble to that notice did the EPA give any indication that it was making a determination of the model year.

Further, the language of the rule itself shows that the EPA was not making any determination of the model year. 40 CFR § 600.314(d)(1) reads: "The range will be made available on a date that coincides as closely as possible to the date of the general model year introduction for the industry." Rather than indicating that the beginning of the model year occurs on the date on which the EPA announces the comparable class ranges, this language indicates that the EPA recognized that the beginning of the model year is not dependent on and does not coincide with the announcement of the ranges. The EPA merely stated that the two dates should occur as close together as possible. After a review of EPA's November 10 notice, this agency has concluded that nowhere therein did the EPA make any determination of the model year. The EPA concurs with that conclusion.

Volvo of America, Inc. ("Volvo"), stated that its interpretation of the term "model year" as applied to foreign manufacturers was that the model year begins on the date when the first vehicle of the current model year is publicly offered for sale in the United States.

Section 501(12) of the Act defines "model year" as a manufacturer's annual production period which includes January 1 of the calendar year, and gives the EPA Administrator the authority to determine the manufacturer's annual production period. If a manufacturer has no annual production period or if the EPA does not determine when that period occurs, the manufacturer's model year is the calendar year.

To date, no determination of the "model year" has been made specifically for the purposes of section 505(a). In the rule specifying the 1978 model year fuel economy testing and calculation procedures (41 FR 38674, September 10, 1976), the EPA stated that the 1978 model year for domestic manufacturers would begin no earlier than August, 1977. This determination, however, was made without regard to section 505(a). Rather, it was made to provide all parties with 12 months advance notice of the applicable testing and calculation procedures, in accordance with the provisions of section 503(d) of the Act.

Based on its consultation with the EPA, this agency has come to the following conclusions in which EPA concurs. Since the EPA has not yet determined any annual production period for domestic or foreign automobile manufacturers applicable to section 505(a), the manufacturers have no annual production period for the purposes of section 505(a). Accordingly, under the terms of section 501(12), the section 505(a) model year for these manufacturers is the calendar year. Therefore, the pre-model year reports for 1978 must be submitted to this agency not earlier than December 2, 1977, and not later than December 31, 1977.

The use of the calendar year as the model year for the manufacturers puts both commenting manufacturers in a position at least as favorable as the ones they had requested. Ford will now have a period in which to prepare its 1978 pre-model year report that is several months longer than the one it would have had if its comment had been adopted. Since Volvo has generally introduced its new automobiles on January 1, this rule will, in effect, treat Volvo as it had requested.

The EPA has indicated to this agency that it will take appropriate action under Title V regarding the definition of model year to be used with respect to the submission of reports for the 1979 and subsequent model years.

This agency recognizes that some confusion may result from the use of one definition of model year to determine when the reports must be submitted and another definition to determine which automobiles are to be discussed in the reports. It should be emphasized that this determination of the model year is applicable only to the timing

provisions of section 505(a) of the Act. The determination is made only to inform the manufacturers and the public precisely when these semiannual fuel economy reports must be submitted.

This determination does not mean that the manufacturers' reports must contain information on every automobile produced between January 1 and December 31 of each year. Section 505 specifies that the reports must indicate whether the manufacturer will comply with the average fuel economy standards applicable under section 502 to the model year for which the report is made, and the manufacturer's plan for achieving that compliance. Thus, the reports are to contain information only on automobiles produced during that model year. To determine the beginning of the model year to which a standard applies, the manufacturers must look to the relevant EPA determination of the model year for the purposes of section 502. Under the relevant EPA determination, the 1978 model year for the domestic manufacturers will run from approximately August 1977 to July 1978.

Based on its assumption that the pre-model year reports might be due in early September, Ford expressed concern that the NPRM would require it to submit one preliminary fuel economy average in its pre-model year report to the NHTSA and a different, second preliminary average to the EPA a short time later. The EPA currently requires all manufacturers to submit a preliminary average fuel economy calculation to that agency not later than 10 days after the manufacturer's public introduction date. 40 CFR 600.506-78. Ford stated that the submission of two different averages would be burdensome and that the first average would be less representative than the second. In the case of domestic manufacturers, the problem of being required to submit two different preliminary averages is obviated by the discussion above regarding the beginning of a model year for reporting purposes. Instead of having to submit their pre-model year reports perhaps several weeks before the submission of their preliminary average to the EPA, the domestic manufacturers will not have to submit those reports until several months after that submission to the EPA. There will not be any significant burden since the aver-

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Based on its assumption that the pre-model year reports might be due in early September, Ford expressed concern that the NPRM would require it to submit one preliminary fuel economy average in its pre-model year report to the NHTSA and a different, second preliminary average to the EPA a short time later. The EPA currently requires all manufacturers to submit a preliminary average fuel economy calculation to that agency not later than 10 days after the manufacturer's public introduction date. 40 CFR 600.506-78. Ford stated that the submission of two different averages would be burdensome and that the first average would be less representative than the second. In the case of domestic manufacturers, the problem of being required to submit two different preliminary averages is obviated by the discussion above regarding the beginning of a model year for reporting purposes. Instead of having to submit their pre-model year reports perhaps several weeks before the submission of their preliminary average to the EPA, the domestic manufacturers will not have to submit those reports until several months after that submission to the EPA. There will not be any significant burden since the aver-

age submitted in the pre-model year report will be the same as the preliminary average submitted to the EPA, except as modified to reflect running changes and new model introductions made since the submission of that average to the EPA. Based on this agency's participation in EPA's 1977 model year pilot program for calculating the manufacturers' average fuel economies, NHTSA believes that all four of the major domestic manufacturers will have programmed computers to calculate their average fuel economy levels for 1978 and later model years, so that these manufacturers can quickly and at little cost determine the effects of changes in fuel economy or production data on their overall average.

Foreign manufacturers might still face the problem of being required to submit two separate calculations of their preliminary average fuel economy. If a manufacturer had its introduction date on January 1, as many foreign manufacturers do, the manufacturer would not be required to submit its preliminary average fuel economy calculation to the EPA until January 11. However, that manufacturer would be required to submit a preliminary average fuel economy in its report to the NHTSA, due not later than December 31. This agency would thus be faced with the prospect of receiving a preliminary average less representative than the one to be subsequently submitted to EPA.

To avoid this problem, this rule has been changed from what was proposed in the NPRM. Under this rule, a manufacturer is not required to include the fuel economy data required for the pre-model year report by § 537.7(b), (c)(1) and (2), and (c)(4) (xiv)-(xvi) and (xxiv), if that report is due to be submitted before the fifth day after the date by which the manufacturer is required to submit the preliminary determination of average fuel economy to the EPA under 40 CFR 600.506. Any manufacturer taking advantage of this opportunity is required to submit a supplementary report to this agency not later than the fifth day after the date by which that manufacturer must submit the preliminary determination. This supplementary report must contain all the information the manufacturer omitted from its semiannual report, pursuant to the above provision, and any revisions of the information previously submitted in the semi-

annual report as are necessary to reflect this new information.

Semiannual reports.

The short time remaining for the manufacturers to submit their 1978 pre-model year reports has necessitated a substantial reduction of the information required in that report. Under this rule, the report would cover passenger automobiles only. With respect to those automobiles, the manufacturer would provide its projected average fuel economy and views on the representativeness of the projection, its model type fuel economy information, certain vehicle configuration technical information, and a general discussion of the manufacturer's marketing measures. None of this information requires any new analytical work to prepare and, thus, should be readily available to the manufacturers for inclusion in a report to this agency.

Further, to alleviate the time pressures on the manufacturers and ensure the submission of full reports, the agency will not take enforcement action on timeliness grounds against any manufacturer which submits its pre-model year report by January 31, 1978.

Many commenters complained that the reporting requirements proposed in the NPRM would impose unreasonable and excessive additional testing costs. These complaints were primarily applicable to the proposed future model year reporting requirements. To the extent that the complaints were directed to the current model year reporting requirements, they appear to apply largely to items not adopted in this rule.

In the NPRM, the agency discussed its consideration of possible ways of avoiding the imposition of any new testing costs, and requested comments on the desirability of permitting a manufacturer to submit responses that were an estimate or a set or range of alternatives. To avoid abuse of that opportunity and ensure the usefulness of the estimates, the agency further proposed that any manufacturer submitting estimates or alternatives would be required to state the basis for each estimate or alternative, the major uncertainties associated with it, and the most likely value in the case of an estimate and the most likely alternative in the case of a set or range of alternatives. Despite the request for

comments on this proposed method, only one manufacturer addressed this issue. Volvo stated that permitting estimates would give the NHTSA more representative data, and make the manufacturer's task less burdensome.

To place the smallest burden on the industry consistent with the NHTSA's need for information, this rule permits manufacturers to submit estimates in response to requirements for data on marketing. A manufacturer may not provide estimates in response to the requirement for fuel economy data or technical specifications data. One of the primary purposes of the fuel economy data is to calculate average fuel economy. Gross estimates of fuel economy are unsuitable for making such an important and sensitive calculation. The rule accordingly requires the manufacturer to submit fuel economy values which have been approved by the EPA for specified vehicle configurations, if values have been approved. If a value has not been approved for a configuration, the manufacturer must submit any available unapproved fuel economy value developed through the use of EPA's test procedures or through analytical methods approved by the EPA. If none of the above types of values are available, the manufacturer is required to submit a fuel economy value based on tests or analyses comparable to the tests or analyses required by the EPA, and a description of the tests or analyses conducted by the manufacturer. The technical specifications can be easily determined at little or no expense. Further, almost all of that information must already be generated for purposes other than this rule.

Projected average fuel economy.

Commenters generally agreed that this was a necessary piece of information. As explained in the preamble to the NPRM, the NHTSA believes that submission of this information would be equivalent to a statement whether the manufacturer would comply with the applicable average fuel economy standards, as required to be included in the reports by section 505(a)(1)(A) of the Act.

Ford challenged the inclusion of a requirement that manufacturers state whether their projected average fuel economy is a sufficiently accurate representation for the purposes of assessing pen-

alties and awarding credits under the Act. If it were not a sufficiently representative figure, the manufacturer would be required to explain how and why the insufficiency resulted, and what additional fuel economy data is necessary to correct the insufficiency. The need, if any, might be to develop fuel economy values for vehicle configurations for which no values are required to be provided. The manufacturer must also state any plans that it has to undertake the testing or analysis necessary to develop the data and to submit it to EPA under 40 CFR 600.509-78. Section 600.509-78 permits manufacturers to supplement voluntarily the fuel economy data that EPA requires from each manufacturer. As noted by EPA in its notice establishing section 600.509-78, that section's purpose is to accommodate the manufacturer who does not believe that the testing required by EPA provides a reasonable basis for making compliance determinations (41 FR 38674, at 38678; September 10, 1976).

The disclosure requirement is included in this rule because it is essential for the efficient functioning of the fuel economy program. It is in the interests of both the government and the industry that the manufacturers' calculated average fuel economies must be as truly representative of the manufacturers' average fuel economies as practicable. If the calculated average are too low, the manufacturers could have an undue financial burden imposed on them in the form of large, unwarranted penalties. To avoid an unwarranted penalty, a manufacturer might undertake costly and unwarranted vehicle modifications or unnecessary production shifts. If, on the other hand, the calculated averages are too high, the nation would be deprived of the total fuel savings envisioned by the Act and the manufacturers would be given an undue credit.

The EPA was aware of the importance of ensuring representative calculated average fuel economies and discussed the issue at length in its notice establishing the fuel economy testing and calculation procedures (41 FR 38674, at 38676, September 10, 1976). The disclosure requirement in this rule will supplement the EPA's efforts in 40 CFR 600.509-78 to ensure the representativeness of the calculated averages.

age submitted in the pre-model year report will be the same as the preliminary average submitted to the EPA, except as modified to reflect running changes and new model introductions made since the submission of that average to the EPA. Based on this agency's participation in EPA's 1977 model year pilot program for calculating the manufacturers' average fuel economies, NHTSA believes that all four of the major domestic manufacturers will have programmed computers to calculate their average fuel economy levels for 1978 and later model years, so that these manufacturers can quickly and at little cost determine the effects of changes in fuel economy or production data on their overall average.

Foreign manufacturers might still face the problem of being required to submit two separate calculations of their preliminary average fuel economy. If a manufacturer had its introduction date on January 1, as many foreign manufacturers do, the manufacturer would not be required to submit its preliminary average fuel economy calculation to the EPA until January 11. However, that manufacturer would be required to submit a preliminary average fuel economy in its report to the NHTSA, due not later than December 31. This agency would thus be faced with the prospect of receiving a preliminary average less representative than the one to be subsequently submitted to EPA.

To avoid this problem, this rule has been changed from what was proposed in the NPRM. Under this rule, a manufacturer is not required to include the fuel economy data required for the pre-model year report by § 537.7(b), (c)(1) and (2), and (c)(4) (xiv)–(xvi) and (xxiv), if that report is due to be submitted before the fifth day after the date by which the manufacturer is required to submit the preliminary determination of average fuel economy to the EPA under 40 CFR 600.506. Any manufacturer taking advantage of this opportunity is required to submit a supplementary report to this agency not later than the fifth day after the date by which that manufacturer must submit the preliminary determination. This supplementary report must contain all the information the manufacturer omitted from its semiannual report, pursuant to the above provision, and any revisions of the information previously submitted in the semi-

annual report as are necessary to reflect this new information.

Semiannual reports.

The short time remaining for the manufacturers to submit their 1978 pre-model year reports has necessitated a substantial reduction of the information required in that report. Under this rule, the report would cover passenger automobiles only. With respect to those automobiles, the manufacturer would provide its projected average fuel economy and views on the representativeness of the projection, its model type fuel economy information, certain vehicle configuration technical information, and a general discussion of the manufacturer's marketing measures. None of this information requires any new analytical work to prepare and, thus, should be readily available to the manufacturers for inclusion in a report to this agency.

Further, to alleviate the time pressures on the manufacturers and ensure the submission of full reports, the agency will not take enforcement action on timeliness grounds against any manufacturer which submits its pre-model year report by January 31, 1978.

Many commenters complained that the reporting requirements proposed in the NPRM would impose unreasonable and excessive additional testing costs. These complaints were primarily applicable to the proposed future model year reporting requirements. To the extent that the complaints were directed to the current model year reporting requirements, they appear to apply largely to items not adopted in this rule.

In the NPRM, the agency discussed its consideration of possible ways of avoiding the imposition of any new testing costs, and requested comments on the desirability of permitting a manufacturer to submit responses that were an estimate or a set or range of alternatives. To avoid abuse of that opportunity and ensure the usefulness of the estimates, the agency further proposed that any manufacturer submitting estimates or alternatives would be required to state the basis for each estimate or alternative, the major uncertainties associated with it, and the most likely value in the case of an estimate and the most likely alternative in the case of a set or range of alternatives. Despite the request for

comments on this proposed method, only one manufacturer addressed this issue. Volvo stated that permitting estimates would give the NHTSA more representative data, and make the manufacturer's task less burdensome.

To place the smallest burden on the industry consistent with the NHTSA's need for information, this rule permits manufacturers to submit estimates in response to requirements for data on marketing. A manufacturer may not provide estimates in response to the requirement for fuel economy data or technical specifications data. One of the primary purposes of the fuel economy data is to calculate average fuel economy. Gross estimates of fuel economy are unsuitable for making such an important and sensitive calculation. The rule accordingly requires the manufacturer to submit fuel economy values which have been approved by the EPA for specified vehicle configurations, if values have been approved. If a value has not been approved for a configuration, the manufacturer must submit any available unapproved fuel economy value developed through the use of EPA's test procedures or through analytical methods approved by the EPA. If none of the above types of values are available, the manufacturer is required to submit a fuel economy value based on tests or analyses comparable to the tests or analyses required by the EPA, and a description of the tests or analyses conducted by the manufacturer. The technical specifications can be easily determined at little or no expense. Further, almost all of that information must already be generated for purposes other than this rule.

Projected average fuel economy.

Commenters generally agreed that this was a necessary piece of information. As explained in the preamble to the NPRM, the NHTSA believes that submission of this information would be equivalent to a statement whether the manufacturer would comply with the applicable average fuel economy standards, as required to be included in the reports by section 505(a)(1)(A) of the Act.

Ford challenged the inclusion of a requirement that manufacturers state whether their projected average fuel economy is a sufficiently accurate representation for the purposes of assessing pen-

alties and awarding credits under the Act. If it were not a sufficiently representative figure, the manufacturer would be required to explain how and why the insufficiency resulted, and what additional fuel economy data is necessary to correct the insufficiency. The need, if any, might be to develop fuel economy values for vehicle configurations for which no values are required to be provided. The manufacturer must also state any plans that it has to undertake the testing or analysis necessary to develop the data and to submit it to EPA under 40 CFR 600.509-78. Section 600.509-78 permits manufacturers to supplement voluntarily the fuel economy data that EPA requires from each manufacturer. As noted by EPA in its notice establishing section 600.509-78, that section's purpose is to accommodate the manufacturer who does not believe that the testing required by EPA provides a reasonable basis for making compliance determinations (41 FR 38674, at 38678; September 10, 1976).

The disclosure requirement is included in this rule because it is essential for the efficient functioning of the fuel economy program. It is in the interests of both the government and the industry that the manufacturers' calculated average fuel economies must be as truly representative of the manufacturers' average fuel economies as practicable. If the calculated average are too low, the manufacturers could have an undue financial burden imposed on them in the form of large, unwarranted penalties. To avoid an unwarranted penalty, a manufacturer might undertake costly and unwarranted vehicle modifications or unnecessary production shifts. If, on the other hand, the calculated averages are too high, the nation would be deprived of the total fuel savings envisioned by the Act and the manufacturers would be given an undue credit.

The EPA was aware of the importance of ensuring representative calculated average fuel economies and discussed the issue at length in its notice establishing the fuel economy testing and calculation procedures (41 FR 38674, at 38676, September 10, 1976). The disclosure requirement in this rule will supplement the EPA's efforts in 40 CFR 600.509-78 to ensure the representativeness of the calculated averages.

Requiring manufacturers to disclose deficiencies which they believe exist in the projected average and to disclose their plans for generating additional fuel economy data would enable the government to avoid duplicating the manufacturers' efforts to generate that data and the waste of public resources resulting from such duplication. It would also inform the government about the extent to which the manufacturers were not going to generate the additional data. The government could then decide whether to undertake any of the testing and analysis itself. Timing would be critical to the ability of the government to undertake any additional testing. The probability of the government's being able to locate readily the precise vehicle configurations needed will steadily decline as the end of a model year approaches. Further, the demand on the government's test facilities for emissions and fuel economy testing purposes requires that the government have some flexibility in scheduling any additional testing.

By requiring that apparent deficiencies in the projected average fuel economy be disclosed, the reporting regulation would aid in ensuring the steady and orderly implementation of the fuel economy program by resolving problems before the end of the model year when corrective actions might still be taken. The entire fuel economy program, which constitutes the primary element of the national effort to conserve gasoline, might be disrupted if deficiencies exist and are not revealed until it is too late to take any corrective action.

The establishment of an orderly procedure for identifying and reporting apparent deficiencies in projected average fuel economies should also aid in promoting public confidence in the fuel economy program. The success of the program depends in part on the faith of the public and the manufacturers in the fuel economy averages calculated for the manufacturers.

The burden imposed on the manufacturers by the disclosure requirement should be fairly small. If a manufacturer has not identified any deficiencies in its projected average fuel economy, it simply reports that fact. If, on the other hand, information available to the manufacturer leads it to believe that there are deficiencies, it simply

reports the nature and cause of the deficiencies as well as any plans for reducing or correcting them.

After considering the benefits to be gained from the disclosure requirement and the minimal resulting burdens, the agency has determined that the requirement is both a necessary and a reasonable means for ensuring the smooth functioning of the fuel economy program.

Ford characterized this requirement as "an unfortunate effort to force manufacturers to waive their right to challenge the manner in which EPA, in consultation with DOT, developed fuel economy testing procedures and calculations under section 503 of the Act." The agency believes that Ford may not have understood the requirement and its purpose fully.

This disclosure requirement does not require that any manufacturer waive the opportunity to make such a challenge. A waiver is "the voluntary and intentional relinquishment of a known right, claim, or privilege." 28 Am. Jur. *Estoppel and Waiver* § 154 (1966). Without considering the other elements of a waiver, it may be seen from the absence of any relinquishment that no waiver is imposed by this requirement. If a manufacturer states and explains its beliefs regarding the representativeness of the projected average, it is not thereby precluded from restating those beliefs at a later time, such as when the final average is calculated. Alternatively, if a manufacturer states in one of its reports that, based on current information and analyses, there do not appear to be any deficiencies in the projection, the manufacturer is not precluded from subsequently stating that new information and analysis have revealed previously undiscovered deficiencies.

Model type fuel economy and technical information.

To provide the agency with the basis for a manufacturer's projected average fuel economy, the rule requires the manufacturer to provide fuel economy values for each model type of its automobiles and describe the fuel economy related technical information and specifications of each vehicle configuration on which the model type fuel economy values were based.

Ford commented that it was unlikely that the NHTSA could make use of the approach angle, departure angle, and breakover angle for all the passenger cars sold by Ford. These data, and the required axle clearance, minimum running clearance, and any other features which the manufacturer believes make an automobile capable of off-highway operation, were included in the NPRM to permit the NHTSA to determine whether the classification scheme of Part 523 was adequately differentiating automobiles capable of off-highway operation from other automobiles. The NHTSA now believes this purpose will be adequately served if the features that make an automobile capable of off-highway operation are provided only with respect to those automobiles claimed to be capable of off-highway operation as determined under Part 523. If the category "automobiles capable of off-highway operation" fails to include automobiles that the manufacturers believe should be included, the manufacturers will presumably inform the NHTSA of that belief.

Both Ford and Chrysler indicated that this fuel economy information should be required by base level, rather than model type. Neither manufacturer explained why the information should be provided in that fashion. Further, neither indicated that providing the information by model type would pose any significant problem for them. EPA procedures that the manufacturers are to follow to calculate their preliminary average fuel economies provide for determining fuel economy values for vehicle configurations, then base levels, and finally model types. The model type fuel economies are then used to calculate the average fuel economy. Conversion of base level fuel economies to model type fuel economies requires that the manufacturers simply follow the calculation procedure in 40 CFR 600.207-77(b). The manufacturers must perform these calculations in any event at essentially the same time to satisfy the EPA requirement for the preliminary average. NHTSA could not calculate the average since it would lack the necessary sales data to make the conversion from base level values to model type values. The agency has decided, therefore, to require the fuel economy information by model type.

Chrysler objected to providing the road load power at 50 miles per hour, stating that this would dramatically increase their testing costs. This requirement was not intended to impose any additional testing costs. To clarify that intention, the requirement has been reworded to provide that road load power information must be provided for an automobile only if a manufacturer has determined, for whatever purpose, that it differs from the road load setting prescribed for that automobile in 40 CFR 86.177-11(d). There is no requirement that the setting be determined for the purposes of preparing the fuel economy reports.

Both Chrysler and Toyota Motor Sales, U.S.A., Inc. ("Toyota"), objected to the proposed requirement that each manufacturer provide a graph of acceleration and velocity versus time from 0 to 60 miles per hour for each configuration. Toyota indicated that it does not plan models according to this index, and that this requirement would impose additional testing. Chrysler concurred in this latter statement.

This information was proposed to be required to show any effects of complying with increasingly more stringent fuel economy standards on the acceleration capabilities of the manufacturer's automobiles over a wide range of speeds. The NHTSA expects that these effects will be felt more at some speed ranges than at others. However, the NHTSA is uncertain of how accurately this acceleration data could be provided without any additional acceleration testing. If manufacturers like Toyota perform limited acceleration testing, e.g., test the acceleration of only certain models, those manufacturers might need to perform tests on the untested models so that they would have a reliable basis for estimating the acceleration for all the configurations listed in the report. To avoid imposing any additional testing, the agency has deleted the requirement for acceleration and velocity data from this rule.

Automobile technology and sales mix changes.

Avanti and Checker stated that they would be dependent upon their engine suppliers for information regarding changes in the technology used in their engines. The agency believes that by the time the pre-model year report is filed for a model year by one of these manufacturers, the

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manufacturer should have been able to determine for itself or learn from the suppliers the differences in specifications between their engines for the current model year and those for previous model years. The agency expects the suppliers to cooperate to the extent necessary to enable these low-volume manufacturers to provide the required data.

Both Rolls Royce and Toyota indicated that they could not improve their fuel economy by changing the sales mix. However, the combined fuel economy of Toyota's subcompacts for the 1977 model year ranges between 24 and 41 miles per gallon, according to the Second Edition of the 1977 EPA/FEA Gas Mileage Guide. Shifts in its mix could enable Toyota to achieve a higher or lower average fuel economy. If a manufacturer produces only one model type, and that model type is in the same inertia weight class in both the current model year and immediately preceding model year, the manufacturer would have no sales mix changes to report. No burden is imposed on that manufacturer.

Marketing measures.

The NPRM contained a proposal that the manufacturer be required to state and describe its marketing measures for each model type of its automobiles. The rationale for requiring a description not only of marketing measures designed to aid a manufacturer in improving its average fuel economy, but also of those measures that would tend to have the opposite effect, was to provide the agency with the full context in which to evaluate the former set of measures.

As noted above, many of the manufacturers commented that the reports should not be required to include marketing information. This comment could not be adopted because section 505(a) requires inclusion of that information.

Toyota commented that it makes no special marketing efforts to improve its average fuel economy, since it produces only subcompacts, which Toyota characterized as very fuel efficient. This agency notes that the marketing efforts of certain manufacturers will not affect whether they achieve compliance with the fuel economy standards. If the lowest fuel economy for any model type produced by a manufacturer for the

current model year equals or exceeds the applicable average fuel economy standard, the manufacturer's marketing efforts have no bearing on compliance and are not one of the steps the manufacturer has taken to achieve compliance. Such manufacturer cannot fail to comply with the standard, regardless of its marketing efforts, since any production mix will comply. Therefore, a manufacturer whose sales mix includes only models with fuel economy levels equal to or greater than the applicable average fuel economy standard is not required to include in its reports for that model year any discussion of its marketing measures.

Further, the agency has decided to reduce substantially the extent to which manufacturers must report marketing measures that will not aid the manufacturer in improving its average fuel economy. The final rule does not require a general description of all of the manufacturer's advertising, pricing, and dealer incentive programs.

The proposed requirement that the manufacturer describe how its use of advertising, pricing, and dealer incentives was designed to aid the manufacturer in improving its average fuel economy is adopted in this rule substantially as proposed in the NPRM. Both the pre- and mid-model year reports are required to include a description of the manufacturer's dealer incentive programs that will be implemented and a description of the manufacturer's advertising and pricing that will tend to aid the manufacturer in improving its average fuel economy during the current model year. Advertising and pricing programs that will tend to aid the manufacturer in improving its average fuel economy include all programs to promote the sales of model types whose average fuel economy equals or exceeds the applicable standards, and any programs to promote the sales of a model type below the standard in lieu of sales of a model type further below the standard. As a quantification of the manufacturer's advertising efforts, the final rule requires that each report state the amount to be spent to advertise each carline, with additional information to be provided regarding model types, if available. Additionally, the mid-model year reports must include a discussion of the marketing efforts actually made by the manufac-

turer during the first half of the model year. No retrospective reporting of marketing efforts made during the second half of the model year is required by this rule. Accordingly, this agency is considering further rulemaking to require the reporting of marketing efforts made during the second half of a model year in the pre-model year report for the following model year.

AMC was the only commenter that agreed that marketing information should be required in the report, and indicated its willingness to provide this information.

The NPRM proposed that the marketing information be provided by model type. However, Ford and Chrysler both indicated that the marketing information was not available by model type. Neither indicated how it was available, however. Most advertising appears to be by car line, with perhaps one model type or vehicle configuration being highlighted. Based on this pattern, the NHTSA believes that the information is available by car line to all manufacturers. Therefore, this rule has been changed to provide that the marketing information be provided by car line and, when available, by model type too.

Concerns were expressed by two manufacturers about their ability to provide the marketing data within the period specified in the NPRM. Chrysler stated that it would be very difficult to provide this information before the start of the model year, since the marketing measures change during the model year in response to the economic conditions and the competitive environment. Further, according to Chrysler, the data is not available in detail at the time required. Ford agreed with this assertion, and indicated that dealer incentives are approved during the model year.

None of these comments took into consideration the provision in the proposal for submitting estimates when precise answers cannot be given. Under this provision, which has been adopted in this rule, manufacturers may submit information about their planned advertising as estimates or as sets or ranges of alternatives. If no incentives are planned, then there would be none to report. Thus, these manufacturers should not encounter the types of problems they suggested.

Chrysler, Ford, and General Motors all indicated that if their marketing plans were disclosed, there would be severe anti-competitive effects. In view of this concern, this agency assumes that the manufacturers will request confidential treatment of this information. The NHTSA procedures for dealing with material claimed to be confidential are discussed below, in the section of this preamble on confidential information.

General Motors suggested that the NHTSA had incorrectly assumed that marketing measures control consumer demand. The NHTSA made no such assumption. The agency does believe that marketing measures can influence the consumer demand. The substantial advertising budgets, rebate programs and dealer incentives of the manufacturers indicate that they share this belief.

Reduction of (CID) (N/V), Impact of other Federal standards on fuel economy, Impacts of efforts to comply with average fuel economy standards on automobile performance, Material composition, and Engine system combinations and fuel systems.

These five items were proposed to be included in the current model year section of the proposed report primarily to verify predictions made by the manufacturers in the future model year section of previously submitted semiannual reports. Since the manufacturers are not required by this rule to provide future model year information, this current model year information would not serve its primary intended purpose, and the requirement for its submission is therefore deleted.

Additional compliance efforts. This item was proposed to be included in the reports to aid this agency in determining the feasibility of additional compliance efforts by a manufacturer projecting noncompliance with a standard. Section 505(a) does not require inclusion of this requirement in the rule. Upon a re-examination of this requirement, the NHTSA has determined that it could meet its information need better by exercising its authority under section 505(c) of the Act to send out a special order requiring specific, detailed information from a manufacturer which projects noncompliance. Accordingly, this rule does not include the requirement for this item.

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Further, the agency has decided to reduce substantially the extent to which manufacturers must report marketing measures that will not aid the manufacturer in improving its average fuel economy. The final rule does not require a general description of all of the manufacturer's advertising, pricing, and dealer incentive programs.

The proposed requirement that the manufacturer describe how its use of advertising, pricing, and dealer incentives was designed to aid the manufacturer in improving its average fuel economy is adopted in this rule substantially as proposed in the NPRM. Both the pre- and mid-model year reports are required to include a description of the manufacturer's dealer incentive programs that will be implemented and a description of the manufacturer's advertising and pricing that will tend to aid the manufacturer in improving its average fuel economy during the current model year. Advertising and pricing programs that will tend to aid the manufacturer in improving its average fuel economy include all programs to promote the sales of model types whose average fuel economy equals or exceeds the applicable standards, and any programs to promote the sales of a model type below the standard in lieu of sales of a model type further below the standard. As a quantification of the manufacturer's advertising efforts, the final rule requires that each report state the amount to be spent to advertise each carline, with additional information to be provided regarding model types, if available. Additionally, the mid-model year reports must include a discussion of the marketing efforts actually made by the manufac-

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None of these comments took into consideration the provision in the proposal for submitting estimates when precise answers cannot be given. Under this provision, which has been adopted in this rule, manufacturers may submit information about their planned advertising as estimates or as sets or ranges of alternatives. If no incentives are planned, then there would be none to report. Thus, these manufacturers should not encounter the types of problems they suggested.

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These five items were proposed to be included in the current model year section of the proposed report primarily to verify predictions made by the manufacturers in the future model year section of previously submitted semiannual reports. Since the manufacturers are not required by this rule to provide future model year information, this current model year information would not serve its primary intended purpose, and the requirement for its submission is therefore deleted.

Additional compliance efforts. This item was proposed to be included in the reports to aid this agency in determining the feasibility of additional compliance efforts by a manufacturer projecting noncompliance with a standard. Section 505(a) does not require inclusion of this requirement in the rule. Upon a re-examination of this requirement, the NHTSA has determined that it could meet its information need better by exercising its authority under section 505(c) of the Act to send out a special order requiring specific, detailed information from a manufacturer which projects noncompliance. Accordingly, this rule does not include the requirement for this item.

Costs and Gross income and market share.

Data on these subjects were proposed to be required in the reports so that the NHTSA could compare the effectiveness and costs of the different manufacturers' compliance strategies and assess the impacts of complying with the average fuel economy standards on the manufacturers individually and as an industry and on consumers. Requirements for these data have been deleted in view of the agency's decision to limit the scope of the report to compliance related purposes. When necessary to obtain information to enable NHTSA to make the assessments of the impacts of compliance on the manufacturers and consumers, it can use special orders.

Future model year data. The NPRM proposed that the manufacturers be required to include in their semiannual reports, beginning with the 1978 model year, information concerning their ability to improve future average fuel economy and the costs and other impacts that would result from making improvements. Ford commented that the proposal for reporting future model year information was very extensive and presented unique and troublesome problems for the industry in view of the scope of the information required, the ability of the industry to comply with the reporting requirements, and the potential effects of the reporting requirements on competition within the industry. Ford also questioned the usefulness of the information since much of the information is, according to that company, subject to change. To allow time for a more thorough consideration of these questions, Ford requested that the NHTSA publish a final rule on current model year information, and treat the section of the NPRM on future model year data as an advance notice of proposed rulemaking. Ford suggested that a new 60-day comment period on the future model year data be allowed, followed by a public hearing. Since section 505(a) does not require future model year reporting, Ford believes that NHTSA has no statutory deadline for promulgation of the future model year reporting requirement. AMC expressed substantially the same views.

Other manufacturers made the same point, although they expressed it in terms of the scope of the proposal and the purposes to be served by the

information. Chrysler stated that the scope of the NPRM was excessive, and that the reporting requirements for current and future model years should be considered separately. According to Chrysler, the reporting rule should be used only to permit the NHTSA to determine whether the manufacturer will comply with the applicable average fuel economy standards. Chrysler also suggested that special orders be used to obtain any needed future model year information.

Rolls Royce, AMC, and British Leyland Motors Inc. ("British Leyland") all indicated that the scope of the proposed report was so broad that members of their engineering staffs would have to be withdrawn from their fuel economy improvement programs to collect and analyze the data required to comply with the proposed reporting requirements. To avoid this situation, British Leyland suggested that the purpose of the reports should be limited to obtaining data to evaluate the manufacturers' plans for compliance. Toyota and Peugeot also commented that the purpose of the reports should be limited to obtaining information sufficient to evaluate the manufacturers' plans for compliance.

With respect to the leadtime allowed, General Motors recommended that future model year data not be required to be reported in the 1978 model year, because of the short leadtime. Chrysler indicated that it would need at least twelve months after publication of the final rule to submit all the future model year data proposed in the NPRM. Volvo, on the other hand, indicated that it could thoroughly prepare this information in time for submission with the 1978 mid-model year report.

After considering these comments, the NHTSA has decided not to include any requirements for future model year information in the final rule. The agency agrees that the timing on establishing the reporting requirements for current model year information is more critical, given the provisions of section 505(a) of the Act, than the timing on establishing requirements for future model year information. The agency will continue to consider the various options open to it for obtaining future model year information, including issuing a new proposal or special orders.

Supplementary reports. Section 505(a)(2) requires that if a manufacturer indicated in its recent semiannual report that it would comply with a fuel economy standard and then determines that its compliance plan is not sufficient to enable it to achieve compliance, the manufacturer must submit a revised plan specifying any additional measures that it will take to achieve compliance. Information on compliance plans and potential noncompliances would enable the agency to determine whether the manufacturers were making good faith efforts to comply with the standards. Using its authority under section 505(a) and (c), the agency intentionally went beyond this requirement in the NPRM.

The first case in which a supplementary report was proposed to be required was when a manufacturer's projected average fuel economy had decreased by 0.1 mile per gallon or more from its most recently reported average, and the resultant average was below the standard or less than 0.4 miles per gallon above the standard. This requirement was intended to alert this agency either that a manufacturer that had projected compliance might be in imminent danger of noncompliance, or that a manufacturer that had projected noncompliance had experienced a further decrease in its average fuel economy. The purpose of this requirement was to provide this agency with information explaining the declining average fuel economy and the steps that the manufacturer intended to take to minimize the decrease.

Both Ford and Chrysler objected to this proposal as burdensome and stated that it was their interpretation of section 505(a)(2) that supplementary reports were required only when a manufacturer's plans, as reported to the NHTSA, were no longer sufficient to ensure compliance with an applicable average fuel economy standard.

After a reconsideration of the proposed requirements and the comments received, the NHTSA has determined to narrow the rule so that it requires a supplementary report to be filed only in the circumstances specified in section 505(a)(2). As in the case of the future model year information, the agency desires to consider further the value and burden of requiring this information which is outside the nominal scope of section 502(a)(2). The NHTSA will monitor

the reports filed under the standards, and consider whether supplemental reporting in addition to the minimum required by section 502(a)(2) of the Act should be required. Accordingly, this rule requires a supplementary report to be filed only if the manufacturer's average fuel economy for a particular model year in its most recent semi-annual report was equal to or greater than an applicable average fuel economy standard, and the manufacturer subsequently projects that its average fuel economy for that model year has fallen below that standard.

Ford and Chrysler expressed the fear that the NPRM would require overly frequent supplemental reporting. To reduce the frequency of supplemental reports, Ford and Chrysler suggested that a greater decrease than 0.1 mile per gallon be required to trigger the necessity for a supplementary report. No threshold is specified in this rule because none is necessary to accommodate the manufacturers' concerns about frequent supplementary reports. Under this rule, a manufacturer is not required to file more than one supplementary report to each semiannual report as a result of lower average fuel economy projections.

The second case in which a supplementary report was proposed to be required in the NPRM was when a manufacturer's statement concerning the representativeness of its average fuel economy is no longer an accurate statement of the manufacturer's views regarding that matter. This supplementary reporting requirement was intended to ensure that a manufacturer promptly raised and explained any concerns about the representativeness of the average and the possible need for additional fuel economy values.

Ford objected to this proposed supplementary reporting requirement based on Ford's interpretation that the NPRM would have required a supplementary report to be filed "whenever any statement with respect to the projected average fuel economy becomes partially or wholly inaccurate or incomplete." Ford stated that this would require daily reporting, and that the standard was so subjective as to be meaningless.

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Costs and Gross income and market share. Data on these subjects were proposed to be required in the reports so that the NHTSA could compare the effectiveness and costs of the different manufacturers' compliance strategies and assess the impacts of complying with the average fuel economy standards on the manufacturers individually and as an industry and on consumers. Requirements for these data have been deleted in view of the agency's decision to limit the scope of the report to compliance related purposes. When necessary to obtain information to enable NHTSA to make the assessments of the impacts of compliance on the manufacturers and consumers, it can use special orders.

Future model year data. The NPRM proposed that the manufacturers be required to include in their semiannual reports, beginning with the 1978 model year, information concerning their ability to improve future average fuel economy and the costs and other impacts that would result from making improvements. Ford commented that the proposal for reporting future model year information was very extensive and presented unique and troublesome problems for the industry in view of the scope of the information required, the ability of the industry to comply with the reporting requirements, and the potential effects of the reporting requirements on competition within the industry. Ford also questioned the usefulness of the information since much of the information is, according to that company, subject to change. To allow time for a more thorough consideration of these questions, Ford requested that the NHTSA publish a final rule on current model year information, and treat the section of the NPRM on future model year data as an advance notice of proposed rulemaking. Ford suggested that a new 60-day comment period on the future model year data be allowed, followed by a public hearing. Since section 505(a) does not require future model year reporting, Ford believes that NHTSA has no statutory deadline for promulgation of the future model year reporting requirement. AMC expressed substantially the same views.

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Both Ford and Chrysler objected to this proposal as burdensome and stated that it was their interpretation of section 505(a)(2) that supplementary reports were required only when a manufacturer's plans, as reported to the NHTSA, were no longer sufficient to ensure compliance with an applicable average fuel economy standard.

After a reconsideration of the proposed requirements and the comments received, the NHTSA has determined to narrow the rule so that it requires a supplementary report to be filed only in the circumstances specified in section 505(a)(2). As in the case of the future model year information, the agency desires to consider further the value and burden of requiring this information which is outside the nominal scope of section 502(a)(2). The NHTSA will monitor

the reports filed under the standards, and consider whether supplemental reporting in addition to the minimum required by section 502(a)(2) of the Act should be required. Accordingly, this rule requires a supplementary report to be filed only if the manufacturer's average fuel economy for a particular model year in its most recent semi-annual report was equal to or greater than an applicable average fuel economy standard, and the manufacturer subsequently projects that its average fuel economy for that model year has fallen below that standard.

Ford and Chrysler expressed the fear that the NPRM would require overly frequent supplemental reporting. To reduce the frequency of supplemental reports, Ford and Chrysler suggested that a greater decrease than 0.1 mile per gallon be required to trigger the necessity for a supplementary report. No threshold is specified in this rule because none is necessary to accommodate the manufacturers' concerns about frequent supplementary reports. Under this rule, a manufacturer is not required to file more than one supplementary report to each semiannual report as a result of lower average fuel economy projections.

The second case in which a supplementary report was proposed to be required in the NPRM was when a manufacturer's statement concerning the representativeness of its average fuel economy is no longer an accurate statement of the manufacturer's views regarding that matter. This supplementary reporting requirement was intended to ensure that a manufacturer promptly raised and explained any concerns about the representativeness of the average and the possible need for additional fuel economy values.

Ford objected to this proposed supplementary reporting requirement based on Ford's interpretation that the NPRM would have required a supplementary report to be filed "whenever any statement with respect to the projected average fuel economy becomes partially or wholly inaccurate or incomplete." Ford stated that this would require daily reporting, and that the standard was so subjective as to be meaningless.

Ford apparently misinterpreted the proposed requirement. The NPRM proposed that a supplementary report be required when a manufac-

turer determined that its previous statements under § 537.7(b) (3) regarding the representativeness of an average do not accurately reflect its current views. This requirement is narrower than Ford understood it to be. A manufacturer's views about the representativeness will presumably change only after some analysis of these procedures by the manufacturers. Even if a manufacturer were to perform a new analysis every day, it seems implausible that each new analysis would yield a different result than the immediately preceding analysis. Since Ford did not explain why different results were likely, the NHTSA assumes that Ford's statement about daily reporting was based on some misinterpretation of this section.

In response to Ford's comment that the standard was too subjective, the language in the rule has been clarified. The rule requires a supplementary report to be filed when a manufacturer determines that its projected average fuel economy as reported to the NHTSA is less representative than the manufacturer previously reported it to be.

Supplementary information on the manufacturer's views about the representativeness of its projected average fuel economy is needed so that the NHTSA will be promptly informed about the possible need to determine fuel economy values for additional base levels or vehicle configurations. The information would be used to promote efficient, non-duplicative use of resources and to avoid the disruption of the fuel economy program, as explained above in the section of this preamble on semiannual reports. This supplementary reporting requirement imposes no burden on the manufacturer other than to record and submit the results of analyses it has already made.

Mercedes commented that manufacturers which produce for sale in the United States not more than 100,000 automobiles in a given model year should not be required to comply with the supplementary reporting requirements. The NHTSA has no authority to exempt such manufacturers from submitting a supplementary report when it no longer projects compliance since those supplementary reports are required from all manufacturers by section 502(a)(2). The agency continues to believe that supplementary reporting regarding the representativeness of a manufac-

turer's projected average fuel economy should be required from all manufacturers. It is important to ensure the compliance of all manufacturers, large and small, with the average fuel economy standards. Further, this reporting requirement should impose no significant burden on even the smallest of manufacturers. If a manufacturer has conducted some analysis and concludes that its average is not sufficiently representative, it simply reports that conclusion and the reasons therefor. Otherwise, the manufacturer submits no supplementary information regarding representativeness.

Toyota commented that the requirement that supplementary reports be filed within 30 days of the date when the manufacturer determines or should have determined that a supplementary report is required is too short a period for foreign manufacturers, particularly considering the time losses inherent in the language differences and communication problems confronting those manufacturers in non-English speaking countries. Toyota did not, however, suggest an alternative period. This agency has determined Toyota's comments have some merit and that a slightly longer time period to file the supplementary reports should be permitted. Accordingly, this rule requires the supplementary report to be received by the NHTSA not later than 45 days from the date on which the manufacturer determined, or with reasonable diligence could have determined, that a supplementary report was required. This 45-day period should be ample time to generate the material, draft and translate the report, and send it air mail to this agency.

None of the comments received by this agency were directed to the proposed content of the supplementary reports. This rule essentially follows the proposal in requiring that the manufacturer state the revised average fuel economy projection or the previously unreported element of unrepresentativeness of the projected average fuel economy, as appropriate, explain the new projection or element of representativeness, and show any changes to the previously submitted report which must be made in light of this newly reported information. To clarify the types of revisions that must be included in the supplementary reports, this rule specifies that the manufacturer no longer projecting compliance shall

include any additional technological improvements, sales mix changes, and marketing efforts it intends to make. If the manufacturer does not intend to attempt to take additional steps to achieve compliance, it must describe the steps it could take under § 537.7(f), relating to additional compliance efforts. In the case of a manufacturer that no longer believes its average fuel economy figure is as representative as it previously stated, the rule requires a statement of the reasons for the insufficient representativeness, the additional testing or analysis necessary to eliminate the insufficiency, and any plans of the manufacturer to undertake the additional testing or analysis.

Treatment of information claimed to be confidential business information. The NPRM set out format and content requirements for asserting and supporting a claim that certain information be withheld from public disclosure as confidential business information. In addition, the NPRM indicated a procedure by which the agency would consider and act upon claims for confidentiality. Since the publication of the NPRM, it has become clear to the agency that comprehensive regulations governing confidential business information, and information which is claimed to be confidential, are necessary. Such regulations are in preparation. The procedures and requirements in the final reporting regulation will be followed in the interim.

Several comments were received relating to the treatment of information which is claimed to be confidential business information. Chrysler stated that it did not "believe that a requirement of a showing of significant competitive damage is authorized by the Motor Vehicle Information and Cost Savings Act (as amended), but only that a showing of competitive damage is enough to require confidential treatment." The requirement of "significant" competitive damage proposed in the NPRM is drawn from the express terms of section 505(d)(1) of the Act. That section provides that the agency may withhold information from the public on the grounds that the information is confidential business information "*only if the [Administrator] . . . determines that such information, if disclosed would result in significant competitive damage.*" (Emphasis added.) Chrysler provided no information, legislative history, or other argument in support of its be-

lief that the Act, notwithstanding the terms of section 505(d)(1), does not require a showing of significant competitive damage to support a manufacturer's claim of confidentiality. Moreover, no other manufacturer made an argument similar to Chrysler's argument. Because of the express terms of section 505(d)(1), and the mandatory nature of its directive, the agency must reject Chrysler's argument.

Chrysler also claimed that certain categories or types of information, which Chrysler identified in its comments, should be entitled to "prima facie" confidential treatment when submitted. The agency agrees with Chrysler that some sort of class treatment of information claimed to be confidential business information would be extremely beneficial. Class determination will reduce the burdens on manufacturers asserting claims for confidentiality, as well as the agency's burden of evaluating claims for confidential treatment of information. Moreover, class determinations will also help to ensure evenhanded treatment of claims for confidentiality.

The agency also agrees with Chrysler that classes should provide for "prima facie" categorization, rather than "per se" categorization. The prima facie approach, by establishing a rebuttable presumption of confidentiality, or non-confidentiality, will allow the agency the flexibility to give special consideration to special cases that may arise.

The agency, however, cannot agree with the categories of information which Chrysler claims should be afforded prima facie confidential treatment. The categories enumerated by Chrysler would include information that might be too general to be considered confidential business information, within the meaning of section 505(d)(1) of the Act. Moreover, the agency is unwilling to make a class determination of the confidentiality of certain kinds of information without providing the opportunity for comment from interested persons on the appropriateness of the class. Therefore, the agency will defer establishing classes of information for the purposes of determining business confidentiality until the rulemaking establishing procedures for the treatment of confidential information mentioned above is completed. The agency believes that the continued use of case-by-case determina-

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Several comments were received relating to the treatment of information which is claimed to be confidential business information. Chrysler stated that it did not "believe that a requirement of a showing of significant competitive damage is authorized by the Motor Vehicle Information and Cost Savings Act (as amended), but only that a showing of competitive damage is enough to require confidential treatment." The requirement of "significant" competitive damage proposed in the NPRM is drawn from the express terms of section 505(d)(1) of the Act. That section provides that the agency may withhold information from the public on the grounds that the information is confidential business information "only if the [Administrator] . . . determines that such information, if disclosed would result in *significant* competitive damage." (Emphasis added.) Chrysler provided no information, legislative history, or other argument in support of its be-

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The agency also agrees with Chrysler that classes should provide for "prima facie" categorization, rather than "per se" categorization. The prima facie approach, by establishing a rebuttable presumption of confidentiality, or non-confidentiality, will allow the agency the flexibility to give special consideration to special cases that may arise.

The agency, however, cannot agree with the categories of information which Chrysler claims should be afforded prima facie confidential treatment. The categories enumerated by Chrysler would include information that might be too general to be considered confidential business information, within the meaning of section 505(d)(1) of the Act. Moreover, the agency is unwilling to make a class determination of the confidentiality of certain kinds of information without providing the opportunity for comment from interested persons on the appropriateness of the class. Therefore, the agency will defer establishing classes of information for the purposes of determining business confidentiality until the rulemaking establishing procedures for the treatment of confidential information mentioned above is completed. The agency believes that the continued use of case-by-case determina-

tions of confidentiality for the interim period should not be unduly burdensome on the manufacturers or the agency.

Chrysler also commented that when a determination is made that certain information is confidential, that information should not be disclosed unless a "requester is able to make a substantial (as opposed to a casual [sic]) showing of need to review this information." Although Chrysler did not specifically reference it, this comment is presumably directed at the Administrator's power under section 505(d)(1) to release confidential business information when relevant to a proceeding under Title V of the Act. The agency has interpreted section 505(d)(1) as giving it the power to release confidential business information in a proceeding when it is in the public interest to do so. The determination of whether the release of confidential business information is in the public interest will usually entail a balancing of benefits and harms, both public and private, that may result from the release of information which has been determined to be confidential business information. Certainly, the need for the information may be an important factor in this balancing, as would other factors, such as the effect on competition resulting from the release of confidential business information. The agency agrees with Chrysler that these, as well as other factors, should be carefully considered before the exercise of the power to release admittedly confidential information. However, the agency cannot now assign weight to, or even identify, all the factors that should be considered prior to the release of confidential business information. The exercise of the 505(d)(1) power must proceed on a case-by-case basis.

Chrysler stated in its comments that a submitter of information should have ample opportunity to object to the proposed release of confidential business information, or to withdraw that information. The agency agrees that submitters of confidential information, or information claimed to be confidential, should have notice of, and opportunity to object to, the proposed release of that information. The NPRM and the final rule provide for such notice, as will the rule governing the treatment of confidential information. The submitter will have at least ten days, when feasible, between notice of intention

to disclose and actual disclosure, during which time the manufacturer may make any objections or take any other action that it regards as appropriate.

The agency does not agree that the submitter of information should have, in any circumstances, the right to withdraw information which it has been lawfully required to submit. Such a right would give to the submitter of the information, rather than the agency, the power to determine what information should be made publicly available. Since Congress clearly gave this power to the agency in section 505(d)(1), Chrysler's comment must be rejected.

Although Ford, General Motors, and AMC made no comments specifically relating to the procedures for treating confidential business information, those manufacturers did express some concern about the harmful effects, especially harm to competition, that would result from disclosure of some of the information which the agency is requiring. Those comments did not explain how disclosure may occur. Presumably, there is no issue of accidental disclosure of information. The agency knows of no instance where confidential business information in the agency's possession was inadvertently or negligently disclosed to the public. The agency takes precautions to ensure that confidential information in its possession is not inadvertently released. Those precautions have been effective in the past, and there is no reason to believe that they will not continue to be effective.

To the extent that confidential information may be released under the power contained in section 505(d)(1), the statements made with respect to the Chrysler comments are applicable here. The agency will consider all the interests, including the interests of the competitive structure of the automobile industry, before releasing any confidential business information. The agency will not release any information or, indeed, take any action at all, unless the agency believes that its actions will be in the public interest.

Both Ford and General Motors were concerned that confidential business information may be included in the agency's report to the Congress. The agency's report to Congress will be a public document. Therefore, the agency would have to decide to disclose any confidential information

before placing it in the report. Given the nature of the report to the Congress, the agency believes it is unlikely that disclosure of confidential business information would be necessary for an informative and complete report to the Congress, and that there are no grounds for the manufacturers' concern in this regard.

A minor change has been made with respect to the NPRM's provisions for incorporation by reference of information in these reports. The NPRM had proposed that, when a document was incorporated by reference in this report, the manufacturer would be required to append a copy of the incorporated document to the report. The NHTSA has determined that this provision is unnecessary in the case of documents which have previously been submitted to NHTSA. With respect to documents incorporated by reference which have previously been submitted to the NHTSA, the manufacturer is required to clearly identify the document and indicate the date on which and by whom the document was submitted to the NHTSA.

Implementation costs. In accordance with Department of Transportation policy encouraging adequate analysis of the consequences of regulatory action (41 FR 16200, April 16, 1976), the agency has summarized below its evaluation of the economic and other consequences of this ac-

tion on the public and private sectors. The total annual cost of implementing this final rule is expected to be less than \$775,000 for the manufacturers and the Federal government. The share of the manufacturers would be \$650,000, and that of the Federal government would be \$125,000. The costs to the manufacturers will consist primarily of the additional administrative costs incurred to gather, tabulate, and submit the required information. The total costs for a manufacturer's semiannual and supplementary reports for a model year will range between \$160,000 for a large manufacturer and \$5,000 for a low volume manufacturer exempted under section 502(c) of Title V.

In light of the foregoing, Title 49, Code of Federal Regulations, is amended by adding a new Part 537, *Automotive Fuel Economy Reports*.

The program official and attorney principally responsible for the development of this rule are Anees Adil and Stephen Kratzke, respectively.

Issued December 7, 1977.

Joan Claybrook
Administrator

42 F.R. 62374
December 12, 1977

tions of confidentiality for the interim period should not be unduly burdensome on the manufacturers or the agency.

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Chrysler stated in its comments that a submitter of information should have ample opportunity to object to the proposed release of confidential business information, or to withdraw that information. The agency agrees that submitters of confidential information, or information claimed to be confidential, should have notice of, and opportunity to object to, the proposed release of that information. The NPRM and the final rule provide for such notice, as will the rule governing the treatment of confidential information. The submitter will have at least ten days, when feasible, between notice of intention

to disclose and actual disclosure, during which time the manufacturer may make any objections or take any other action that it regards as appropriate.

The agency does not agree that the submitter of information should have, in any circumstances, the right to withdraw information which it has been lawfully required to submit. Such a right would give to the submitter of the information, rather than the agency, the power to determine what information should be made publicly available. Since Congress clearly gave this power to the agency in section 505(d)(1), Chrysler's comment must be rejected.

Although Ford, General Motors, and AMC made no comments specifically relating to the procedures for treating confidential business information, those manufacturers did express some concern about the harmful effects, especially harm to competition, that would result from disclosure of some of the information which the agency is requiring. Those comments did not explain how disclosure may occur. Presumably, there is no issue of accidental disclosure of information. The agency knows of no instance where confidential business information in the agency's possession was inadvertently or negligently disclosed to the public. The agency takes precautions to ensure that confidential information in its possession is not inadvertently released. Those precautions have been effective in the past, and there is no reason to believe that they will not continue to be effective.

To the extent that confidential information may be released under the power contained in section 505(d)(1), the statements made with respect to the Chrysler comments are applicable here. The agency will consider all the interests, including the interests of the competitive structure of the automobile industry, before releasing any confidential business information. The agency will not release any information or, indeed, take any action at all, unless the agency believes that its actions will be in the public interest.

Both Ford and General Motors were concerned that confidential business information may be included in the agency's report to the Congress. The agency's report to Congress will be a public document. Therefore, the agency would have to decide to disclose any confidential information

before placing it in the report. Given the nature of the report to the Congress, the agency believes it is unlikely that disclosure of confidential business information would be necessary for an informative and complete report to the Congress, and that there are no grounds for the manufacturers' concern in this regard.

A minor change has been made with respect to the NPRM's provisions for incorporation by reference of information in these reports. The NPRM had proposed that, when a document was incorporated by reference in this report, the manufacturer would be required to append a copy of the incorporated document to the report. The NHTSA has determined that this provision is unnecessary in the case of documents which have previously been submitted to NHTSA. With respect to documents incorporated by reference which have previously been submitted to the NHTSA, the manufacturer is required to clearly identify the document and indicate the date on which and by whom the document was submitted to the NHTSA.

Implementation costs. In accordance with Department of Transportation policy encouraging adequate analysis of the consequences of regulatory action (41 FR 16200, April 16, 1976), the agency has summarized below its evaluation of the economic and other consequences of this ac-

tion on the public and private sectors. The total annual cost of implementing this final rule is expected to be less than \$775,000 for the manufacturers and the Federal government. The share of the manufacturers would be \$650,000, and that of the Federal government would be \$125,000. The costs to the manufacturers will consist primarily of the additional administrative costs incurred to gather, tabulate, and submit the required information. The total costs for a manufacturer's semiannual and supplementary reports for a model year will range between \$160,000 for a large manufacturer and \$5,000 for a low volume manufacturer exempted under section 502(c) of Title V.

In light of the foregoing, Title 49, Code of Federal Regulations, is amended by adding a new Part 537, *Automotive Fuel Economy Reports*.

The program official and attorney principally responsible for the development of this rule are Anees Adil and Stephen Kratzke, respectively.

Issued December 7, 1977.

Joan Claybrook
Administrator

42 F.R. 62374
December 12, 1977

PREAMBLE TO AN AMENDMENT TO PART 537—AUTOMOTIVE FUEL ECONOMY REPORTS

(Docket Nos. FE 76-04; Notice 5;
FE 77-03, Notice 4; 80-21, Notice 1)

ACTION: Final Rule.

SUMMARY: This notice makes conforming amendments to several of the agency's regulations deleting specific requirements for confidentiality determinations. These conforming amendments are needed as a result of the publication today of a new agency regulation governing requests for confidentiality determinations (Part 512). Since that new regulation supercedes the confidentiality provisions existing in several of the agency's other regulations, these conforming amendments are being made without notice and opportunity for comment.

EFFECTIVE DATE: These amendments are effective April 9, 1981.

FOR FURTHER INFORMATION CONTACT:

Roger Tilton, Office of Chief Counsel,
National Highway Traffic Safety Administration, 400 Seventh Street, S.W.,
Washington, D.C. 20590 (202-426-9511).

SUPPLEMENTARY INFORMATION: In accordance with the above, Title 49 of the Code of Federal Regulations is amended as follows.

Part 525, *Exemptions From Average Fuel Economy Standards*, is revised as follows:

(1) Section 525.6(g) (1) and (2) are deleted and replaced with the following:

(g) Specify and segregate any part of the information and data submitted under this part that the petitioner wishes to have withheld from public disclosure in accordance with Part 512 of this Chapter.

(2) Section 525.13 is deleted and section 525.12 is revised to read:

§ 525.12 Public inspection of information.

(a) Except as provided in paragraph (b), any person may inspect available information relevant to a petition under this Part, including the petition and any supporting data, memoranda of informal meetings with the petitioner or any other interested persons, and the notices regarding the petition, in the Docket Section of the National Highway Traffic Safety Administration. Any person may obtain copies of the information available for inspection under this paragraph in accordance with Part 7 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 7).

(b) Except for the release of confidential information authorized by section 505 of the Act and Part 512 of this Chapter, information made available for public inspection does not include information for which confidentiality is requested under § 525.6(g) and is granted in accordance with Part 512 and sections 502 and 505 of the Act and section 552(b) of Title 5 of the United States Code.

Part 537, *Automotive Fuel Economy Reports*, is revised as follows:

(1) Section 537.5(c) (7) (i) and (ii) are deleted and replaced with the following:

(7) Specify any part of the information or data in the report that the manufacturer believes should be withheld from public disclosure as trade secret or other confidential business information in accordance with Part 512 of this Chapter.

(2) Section 537.12 is deleted and section 537.11 is revised to read:

§ 537.11 Public inspection of information.

(a) Except as provided in paragraph (b), any person may inspect the information and data submit-

ted by a manufacturer under this part in the docket section of the National Highway Traffic Safety Administration. Any person may obtain copies of the information available for inspection under this section in accordance with the regulations of the Secretary of Transportation in Part 7 of this title.

(b) Except for the release of confidential information authorized by section 505 of the Act and Part 512 of this Chapter, information made available under paragraph (a) for public inspection does not include information for which confidentiality is requested under § 537.5(c) (7) and is granted in accordance with Part 512 of this Chapter, section 505 of the Act, and section 552(b) of Title 5 of the United States Code.

Part 555, *Temporary Exemption From Motor Vehicle Safety Standards*, is revised as follows:

(1) Section 555.5(b) (6) is revised to read:

(6) Specify any part of the information and data submitted which petitioner requests be

withheld from public disclosure in accordance with Part 512 of this Chapter.

(2) Section 555.10(b) is revised to read:

(b) Except for the release of confidential information authorized by Part 512 of this Chapter, information made available for inspection under paragraph (a) shall not include materials not relevant to the petition for which confidentiality is requested and granted in accordance with sections 112, 113, and 158 of the Act (15 U.S.C. 1401, 1402, and 1418) and section 552(b) of Title 5 of the United States Code.

Issued on December 30, 1980.

Joan Claybrook
Administrator

46 F.R. 2063
January 8, 1981

PREAMBLE TO AN AMENDMENT TO PART 537—AUTOMOTIVE FUEL ECONOMY REPORTS

**(Docket Nos. FE 76-04; Notice 5;
FE 77-03, Notice 4; 80-21, Notice 1)**

ACTION: Final Rule.

SUMMARY: This notice makes conforming amendments to several of the agency's regulations deleting specific requirements for confidentiality determinations. These conforming amendments are needed as a result of the publication today of a new agency regulation governing requests for confidentiality determinations (Part 512). Since that new regulation supercedes the confidentiality provisions existing in several of the agency's other regulations, these conforming amendments are being made without notice and opportunity for comment.

EFFECTIVE DATE: These amendments are effective April 9, 1981.

FOR FURTHER INFORMATION CONTACT:

Roger Tilton, Office of Chief Counsel,
National Highway Traffic Safety Administration,
400 Seventh Street, S.W.,
Washington, D.C. 20590 (202-426-9511).

SUPPLEMENTARY INFORMATION: In accordance with the above, Title 49 of the Code of Federal Regulations is amended as follows.

Part 525, *Exemptions From Average Fuel Economy Standards*, is revised as follows:

(1) Section 525.6(g) (1) and (2) are deleted and replaced with the following:

(g) Specify and segregate any part of the information and data submitted under this part that the petitioner wishes to have withheld from public disclosure in accordance with Part 512 of this Chapter.

(2) Section 525.13 is deleted and section 525.12 is revised to read:

§ 525.12 Public Inspection of Information.

(a) Except as provided in paragraph (b), any person may inspect available information relevant to a petition under this Part, including the petition and any supporting data, memoranda of informal meetings with the petitioner or any other interested persons, and the notices regarding the petition, in the Docket Section of the National Highway Traffic Safety Administration. Any person may obtain copies of the information available for inspection under this paragraph in accordance with Part 7 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 7).

(b) Except for the release of confidential information authorized by section 505 of the Act and Part 512 of this Chapter, information made available for public inspection does not include information for which confidentiality is requested under § 525.6(g) and is granted in accordance with Part 512 and sections 502 and 505 of the Act and section 552(b) of Title 5 of the United States Code.

Part 537, *Automotive Fuel Economy Reports*, is revised as follows:

(1) Section 537.5(c) (7) (i) and (ii) are deleted and replaced with the following:

(7) Specify any part of the information or data in the report that the manufacturer believes should be withheld from public disclosure as trade secret or other confidential business information in accordance with Part 512 of this Chapter.

(2) Section 537.12 is deleted and section 537.11 is revised to read:

§ 537.11 Public Inspection of Information.

(a) Except as provided in paragraph (b), any person may inspect the information and data submit-

ted by a manufacturer under this part in the docket section of the National Highway Traffic Safety Administration. Any person may obtain copies of the information available for inspection under this section in accordance with the regulations of the Secretary of Transportation in Part 7 of this title.

(b) Except for the release of confidential information authorized by section 505 of the Act and Part 512 of this Chapter, information made available under paragraph (a) for public inspection does not include information for which confidentiality is requested under § 537.5(c)(7) and is granted in accordance with Part 512 of this Chapter, section 505 of the Act, and section 552(b) of Title 5 of the United States Code.

Part 555, *Temporary Exemption From Motor Vehicle Safety Standards*, is revised as follows:

(1) Section 555.5(b)(6) is revised to read:

(6) Specify any part of the information and data submitted which petitioner requests be

withheld from public disclosure in accordance with Part 512 of this Chapter.

(2) Section 555.10(b) is revised to read:

(b) Except for the release of confidential information authorized by Part 512 of this Chapter, information made available for inspection under paragraph (a) shall not include materials not relevant to the petition for which confidentiality is requested and granted in accordance with sections 112, 113, and 158 of the Act (15 U.S.C. 1401, 1402, and 1418) and section 552(b) of Title 5 of the United States Code.

Issued on December 30, 1980.

Joan Claybrook
Administrator

46 F.R. 2063
January 8, 1981

PREAMBLE TO AN AMENDMENT TO PART 537

Automotive Fuel Economy; Semi-annual Reports (Docket No. FE 77-03; Notice 7)

ACTION: Final rule.

SUMMARY: This notice amends the agency's automotive fuel economy reporting requirements by deleting certain information submission requirements. The deleted requirements applied to information the agency has determined to be no longer necessary for it to monitor the automotive industry's progress in achieving higher levels of average fuel economy. The agency is adopting this amendment as proposed, to permit the vehicle manufacturers to take advantage of the reduced requirements in the next reports required to be submitted. However, the agency will continue to evaluate comments responding to the request in its proposal regarding suggestions for further reductions in the requirements.

DATE: This action is effective on August 12, 1982.

SUPPLEMENTARY INFORMATION: Section 505 of the Motor Vehicle Information and Cost Savings Act requires each automobile manufacturer (other than those small manufacturers which have been granted an alternative fuel economy standard under section 502(c) of the Act) to submit to the agency semi-annual reports relating to that manufacturer's efforts to comply with average fuel economy standards. The Act specifies that each report must contain a statement as to whether the manufacturer will comply with average fuel economy standards for that year, a plan describing the steps the manufacturer has taken or will take to comply, and any other information the agency may require. Whenever a manufacturer determines that a plan it submitted in one of its reports is no longer adequate to assure compliance, it must submit a revised plan. Section 505(c) of the Act also authorizes the

agency to require further reports to be submitted, as necessary for the agency to carry out its responsibilities under the Act. The Act requires the agency to issue rules establishing the form and content of all reports.

On December 12, 1977, in 42 F.R. 62374, the agency established form and content requirements for fuel economy reports. Those requirements were designed to elicit information necessary to monitor compliance with standards and to assist the agency in its standard-setting activities for passenger automobiles and light trucks. However, in light of the agency's determination that, for the foreseeable future, market forces appear to provide adequate incentive for the production of and demand for fuel efficient vehicles (see 46 F.R. 22243, April 16, 1981) and that the establishment of additional passenger automobile fuel economy standards is therefore unnecessary, some of the information required to be submitted in fuel economy reports was found to be no longer needed by the agency. Therefore, on February 22, 1982, the agency proposed deleting portions of its fuel economy reporting requirements which were originally established principally to assist future rulemaking. See 47 F.R. 7706.

The agency's December 1977 rule required the submission of five general categories of information: (1) the manufacturer's projected average fuel economy; (2) the projected fuel economy and sales for each model type; (3) a variety of technical and sales data for each vehicle configuration; (4) a description of technology and sales changes from the preceding model year which increase the manufacturer's average fuel economy, and of changes made during the model year which will affect average fuel economy; and (5) a description of marketing measures the manufacturer expects to use to improve average fuel economy. The proposed

revisions to the reporting requirements would have required the submission of the detailed configuration data only once per year, instead of requiring it for each semi-annual report, and would have deleted the requirements for submission of sales and technology change information and information on marketing measures.

The agency received ten comments on the proposed changes, eight from vehicle manufacturers and two from consumer organizations. The vehicle manufacturers generally supported the proposed reductions and suggested additional areas where information submission requirements might be reduced. The consumer organizations opposed the reductions, arguing that the agency should continue to establish fuel economy standards for each model year and that even if the agency merely monitors the need for future standards, much of the no-longer-required information would still be highly useful.

For the reasons set forth below, the agency disagrees with the arguments set forth by the two consumer groups. As an immediate measure, the agency is promulgating an amended reporting rule identical to the proposed amendment. This step was suggested by Ford Motor Company in its NPRM comments. Taking that action will permit a less stringent rule to be in effect in time for the preparation and submission of future reports. The agency will review the comments by the vehicle manufacturers to determine whether additional reductions in the reporting requirements are appropriate and consistent with the agency's statutory obligations.

The Environmental Policy Institute and the Center for Auto Safety both argued that the agency should not adopt the proposed modifications to the reporting rule because the agency should proceed to establish fuel economy standards for model years after 1985. Under section 502(a)(1) of the Act, Congress established an average fuel economy standard of 27.5 miles per gallon for passenger automobiles manufactured in the 1985 model year and thereafter. However, under section 502(a)(4) of the Act, the agency is authorized to amend the standard for 1985 or any model year thereafter to a level determined to be the maximum feasible average fuel economy level. The agency's April 16 notice announced the

agency's determination that it is not now necessary to exercise the discretionary authority granted under section 502(a)(4) of the Act to issue additional passenger automobile standards, given current high gasoline prices and demand for fuel efficient vehicles and announced plans of the vehicle manufacturers to produce efficient vehicles. The agency reaffirmed that position in denying a petition from the Center for Auto Safety to commence rulemaking on such standards (see 46 F.R. 48383, October 1, 1981) and still remains of that view.

The standards-related information previously required to be submitted in the semi-annual reports and now being deleted was useful when the agency engaged in major fuel economy standard setting proceedings virtually every year, as it did from 1976-1980. However, even for those proceedings, it was necessary to supplement those reports with some detailed information obtained through the use of questionnaires and special orders to the manufacturers. The agency simply sees no need for the continued submission of certain information semi-annually. If changed circumstances create a need in the future for the issuance of additional passenger car standards, for example, the agency could obtain the necessary information in the same manner as in the earlier proceedings, i.e., through the use of questionnaires and special orders.

The Center for Auto Safety also argued that the fuel economy reporting rule should not be modified, since the agency still needs all the previously required data to fulfill its stated intent of monitoring the actions of the manufacturers in producing and marketing fuel efficient vehicles, as well as consumer demand for such vehicles. The agency disagrees. Long term trends in automotive fuel efficiency can be ascertained with less detailed and less frequently submitted information than is necessary to establish standards which must be enforced to the nearest 0.1 mile per gallon. Information on vehicle model types, along with the annual updates of more detailed configuration data, provides adequate information to assess such trends. Marketing measure information was more useful in times when manufacturers might have needed to use such measures to raise their average fuel economy levels enough to comply with applicable fuel economy standards. In the current market

PREAMBLE TO AN AMENDMENT TO PART 537

Automotive Fuel Economy; Semi-annual Reports (Docket No. FE 77-03; Notice 7)

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DATE: This action is effective on August 12, 1982.

SUPPLEMENTARY INFORMATION: Section 505 of the Motor Vehicle Information and Cost Savings Act requires each automobile manufacturer (other than those small manufacturers which have been granted an alternative fuel economy standard under section 502(c) of the Act) to submit to the agency semi-annual reports relating to that manufacturer's efforts to comply with average fuel economy standards. The Act specifies that each report must contain a statement as to whether the manufacturer will comply with average fuel economy standards for that year, a plan describing the steps the manufacturer has taken or will take to comply, and any other information the agency may require. Whenever a manufacturer determines that a plan it submitted in one of its reports is no longer adequate to assure compliance, it must submit a revised plan. Section 505(c) of the Act also authorizes the

agency to require further reports to be submitted, as necessary for the agency to carry out its responsibilities under the Act. The Act requires the agency to issue rules establishing the form and content of all reports.

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revisions to the reporting requirements would have required the submission of the detailed configuration data only once per year, instead of requiring it for each semi-annual report, and would have deleted the requirements for submission of sales and technology change information and information on marketing measures.

The agency received ten comments on the proposed changes, eight from vehicle manufacturers and two from consumer organizations. The vehicle manufacturers generally supported the proposed reductions and suggested additional areas where information submission requirements might be reduced. The consumer organizations opposed the reductions, arguing that the agency should continue to establish fuel economy standards for each model year and that even if the agency merely monitors the need for future standards, much of the no-longer-required information would still be highly useful.

For the reasons set forth below, the agency disagrees with the arguments set forth by the two consumer groups. As an immediate measure, the agency is promulgating an amended reporting rule identical to the proposed amendment. This step was suggested by Ford Motor Company in its NPRM comments. Taking that action will permit a less stringent rule to be in effect in time for the preparation and submission of future reports. The agency will review the comments by the vehicle manufacturers to determine whether additional reductions in the reporting requirements are appropriate and consistent with the agency's statutory obligations.

The Environmental Policy Institute and the Center for Auto Safety both argued that the agency should not adopt the proposed modifications to the reporting rule because the agency should proceed to establish fuel economy standards for model years after 1985. Under section 502(a)(1) of the Act, Congress established an average fuel economy standard of 27.5 miles per gallon for passenger automobiles manufactured in the 1985 model year and thereafter. However, under section 502(a)(4) of the Act, the agency is authorized to amend the standard for 1985 or any model year thereafter to a level determined to be the maximum feasible average fuel economy level. The agency's April 16 notice announced the

agency's determination that it is not now necessary to exercise the discretionary authority granted under section 502(a)(4) of the Act to issue additional passenger automobile standards, given current high gasoline prices and demand for fuel efficient vehicles and announced plans of the vehicle manufacturers to produce efficient vehicles. The agency reaffirmed that position in denying a petition from the Center for Auto Safety to commence rulemaking on such standards (see 46 F.R. 48383, October 1, 1981) and still remains of that view.

The standards-related information previously required to be submitted in the semi-annual reports and now being deleted was useful when the agency engaged in major fuel economy standard setting proceedings virtually every year, as it did from 1976-1980. However, even for those proceedings, it was necessary to supplement those reports with some detailed information obtained through the use of questionnaires and special orders to the manufacturers. The agency simply sees no need for the continued submission of certain information semi-annually. If changed circumstances create a need in the future for the issuance of additional passenger car standards, for example, the agency could obtain the necessary information in the same manner as in the earlier proceedings, i.e., through the use of questionnaires and special orders.

The Center for Auto Safety also argued that the fuel economy reporting rule should not be modified, since the agency still needs all the previously required data to fulfill its stated intent of monitoring the actions of the manufacturers in producing and marketing fuel efficient vehicles, as well as consumer demand for such vehicles. The agency disagrees. Long term trends in automotive fuel efficiency can be ascertained with less detailed and less frequently submitted information than is necessary to establish standards which must be enforced to the nearest 0.1 mile per gallon. Information on vehicle model types, along with the annual updates of more detailed configuration data, provides adequate information to assess such trends. Marketing measure information was more useful in times when manufacturers might have needed to use such measures to raise their average fuel economy levels enough to comply with applicable fuel economy standards. In the current market

situation, compliance with standards is typically assured by comfortable margins. Thus, marketing measures are targeted to problems associated with inventories of over-stocked vehicles. With regard to technological change information, this material is typically available to the agency in the trade press. It can also be derived from the configuration and model type data in many cases. Finally, running changes are generally minor, unplanned product revisions caused by parts shortages or driveability complaints by consumers, such as a change in tire type or in carburetor calibration. Major actions which could significantly affect fuel economy are rarely implemented as running changes.

The agency finds good cause for making this amendment effective immediately, since it would permit the manufacturers to avoid devoting resources to the preparation of information which the agency has determined to be of little value in carrying out its responsibilities. The immediate effective date is authorized under the Administrative Procedure Act for that reason and, since this rulemaking "relieves a restriction," within the meaning of 5 U.S.C. 553(d).

NHTSA has determined that this proceeding does not involve a major rule within the meaning of section 1, paragraph (b), of Executive Order 12291 because it is not likely to have an effect on the economy of \$100 million or more, to result in a major increase in costs or prices, or to have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States firms to meet

foreign competition. This action is also not significant for purposes of Department of Transportation procedures for internal review of regulatory actions. A regulatory evaluation of this action has been prepared and has been placed in the rulemaking docket for this notice. Copies of that document can be obtained from the agency's Docket Section at the address stated above.

Pursuant to the Regulatory Flexibility Act, the agency has considered the impact of this rulemaking action on small entities. The agency certifies that this action will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis will not be required for this action. The agency has concluded that few, if any, manufacturers of passenger cars are small entities and that, in any event, any effect on such manufacturers will be positive in terms of reduced costs. NHTSA has also concluded that the environmental consequences of this action will be of such limited scope that they clearly will not have a significant effect on the quality of the human environment.

Issued on August 5, 1982.

Raymond A. Peck, Jr.
Administrator

47 F.R. 34985
August 12, 1982

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foreign competition. This action is also not significant for purposes of Department of Transportation procedures for internal review of regulatory actions. A regulatory evaluation of this action has been prepared and has been placed in the rulemaking docket for this notice. Copies of that document can be obtained from the agency's Docket Section at the address stated above.

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Issued on August 5, 1982.

Raymond A. Peck, Jr.
Administrator

47 F.R. 34985
August 12, 1982

PART 537—AUTOMOTIVE FUEL ECONOMY REPORTS

Section

537.1 Scope.

537.2 Purpose.

537.3 Applicability.

537.4 Definitions.

537.5 General requirements for reports.

537.6 General content of reports.

537.7 Pre-model year and mid-model year reports.

537.8 Supplementary reports.

537.9 Determination of fuel economy values and average fuel economy.

537.10 Incorporation by reference.

537.11 Public inspection of information.

537.12 Confidential information.

AUTHORITY: Section 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); Section 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2005); delegation of authority at 41 FR 25015, June 22, 1976.

§ 537.1 Scope.

This part establishes requirements for automobile manufacturers to submit reports to the National Highway Traffic Safety Administration regarding their efforts to improve automotive fuel economy.

§ 537.2 Purpose.

The purpose of this part is to obtain information to aid the National Highway Traffic Safety Administration in evaluating automobile manufacturers' plans for complying with average fuel economy standards and in preparing an annual review of the average fuel economy standards.

§ 537.3 Applicability.

This part applies to automobile manufacturers.

§ 537.4 Definitions.

(a) *Statutory terms.* (1) The terms "average fuel economy standard," "fuel," "manufacture," and "model year" are used as defined in section 501 of the Act.

(2) The term "manufacturer" is used as defined in section 501 of the Act and in accordance with Part 529 of this chapter.

(3) The terms "average fuel economy," "fuel economy," and "model type" are used as defined in Subpart A of 40 CFR Part 600.

(4) The terms "automobile," "automobile capable of off-highway operation" and "passenger automobile" are used as defined in section 501 of the Act and in accordance with the determinations in Part 523 of this chapter.

(b) *Other terms.* (1) The term "loaded vehicle weight" is used as defined in Subpart A of 40 CFR Part 86.

(2) The terms "axle ratio," "base level," "body style," "car line," "city fuel economy," "combined fuel economy," "engine code," "gross vehicle weight," "highway fuel economy," "inertia weight," "transmission class," and "vehicle configuration" are used as defined in Subpart A of 40 CFR Part 600.

(3) The term "nonpassenger automobile" is used as defined in Part 523 of this chapter and in accordance with determinations in that part.

(4) The terms "approach angle," "axle clearance," "breakover angle," "cargo carrying volume," "departure angle," "passenger carrying volume," "running clearance," and "temporary living quarters" are used as defined in Part 523 of this chapter.

(5) The term "incomplete automobile manufacturer" is used as defined in Part 529 of this chapter.

(6) The term "designated seating position" is used as defined in § 571.3 of this chapter.

(7) As used in this part, unless otherwise required by the context:

(i) "Act means the Motor Vehicle Information and Cost Savings Act (Pub. L. 92-513), as amended by the Energy Policy and Conservation Act (Pub. L. 94-163).

(ii) "Administrator" means the Administrator of the National Highway Traffic Safety Administration or the Administrator's delegate.

(iii) "Current model year" means:

(A) In the case of a pre-model year report, the full model year immediately following the period during which that report is required by § 537.5(b) to be submitted.

(B) In the case of a mid-model year report, the model year during which that report is required by § 537.5(b) to be submitted.

(iv) "Average" means a production-weighted average.

(v) "Sales mix" means the number of automobiles, and the percentage of a manufacturer's annual total production of automobiles, in each inertia weight class, which the manufacturer plans to produce in a specified model year.

(vi) "Total drive ratio" means the ratio of an automobile's engine rotational speed (in revolutions per minute) to the automobile's forward speed (in miles per hour).

§ 537.5 General requirements for reports.

(a) For each current model year, each manufacturer shall submit a pre-model year report, a mid-model year report, and, as required by § 537.8, supplementary reports.

(b)(1) The pre-model year report required by this part for each current model year must be submitted not more than 30 days and not less than 1 day before the 1st day of that model year.

(2) The mid-model year report required by this part for each current model year must be submitted not earlier than the 180th day and not later than the 209th day of that model year.

(3) Each supplementary report must be submitted in accordance with § 537.8(c).

(c) Each report required by this part must:

(1) Identify the report as a pre-model year report, mid-model year report, or supplementary report, as appropriate;

(2) Identify the manufacturer submitting the report;

(3) State the full name, title, and address of the official responsible for preparing the report;

(4) Be submitted in 10 copies to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590;

(5) Identify the current model year;

(6) Be written in the English language; and

[(7) Specify any part of the information or data in the report that the manufacturer believes should be withheld from public disclosure as trade secret or other confidential business information in accordance with Part 512 of this Chapter. (46 F.R. 2063—January 8, 1981. Effective: April 9, 1981)]

(d) Each report required by this part must be based upon all information and data available to the manufacturer 30 days before the report is submitted to the Administrator.

(e)(1) Any manufacturer may provide any item of information or data required by § 537.7 (e) as an estimate, or as a set or range of alternatives.

(2) Any manufacturer submitting estimates, or sets or ranges of alternatives as permitted by paragraph (e) (1) of this section, shall state:

(i) The method for determining them;

(ii) The major uncertainties associated with them; and

PART 537—AUTOMOTIVE FUEL ECONOMY REPORTS

Section

537.1 Scope.

537.2 Purpose.

537.3 Applicability.

537.4 Definitions.

537.5 General requirements for reports.

537.6 General content of reports.

537.7 Pre-model year and mid-model year reports.

537.8 Supplementary reports.

537.9 Determination of fuel economy values and average fuel economy.

537.10 Incorporation by reference.

537.11 Public inspection of information.

537.12 Confidential information.

AUTHORITY: Section 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); Section 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2005); delegation of authority at 41 FR 25015, June 22, 1976.

§ 537.1 Scope.

This part establishes requirements for automobile manufacturers to submit reports to the National Highway Traffic Safety Administration regarding their efforts to improve automotive fuel economy.

§ 537.2 Purpose.

The purpose of this part is to obtain information to aid the National Highway Traffic Safety Administration in evaluating automobile manufacturers' plans for complying with average fuel economy standards and in preparing an annual review of the average fuel economy standards.

§ 537.3 Applicability.

This part applies to automobile manufacturers.

§ 537.4 Definitions.

(a) *Statutory terms.* (1) The terms "average fuel economy standard," "fuel," "manufacture," and "model year" are used as defined in section 501 of the Act.

(2) The term "manufacturer" is used as defined in section 501 of the Act and in accordance with Part 529 of this chapter.

(3) The terms "average fuel economy," "fuel economy," and "model type" are used as defined in Subpart A of 40 CFR Part 600.

(4) The terms "automobile," "automobile capable of off-highway operation" and "passenger automobile" are used as defined in section 501 of the Act and in accordance with the determinations in Part 523 of this chapter.

(b) *Other terms.* (1) The term "loaded vehicle weight" is used as defined in Subpart A of 40 CFR Part 86.

(2) The terms "axle ratio," "base level," "body style," "car line," "city fuel economy," "combined fuel economy," "engine code," "gross vehicle weight," "highway fuel economy," "inertia weight," "transmission class," and "vehicle configuration" are used as defined in Subpart A of 40 CFR Part 600.

(3) The term "nonpassenger automobile" is used as defined in Part 523 of this chapter and in accordance with determinations in that part.

(4) The terms "approach angle," "axle clearance," "breakover angle," "cargo carrying volume," "departure angle," "passenger carrying volume," "running clearance," and "temporary living quarters" are used as defined in Part 523 of this chapter.

(5) The term "incomplete automobile manufacturer" is used as defined in Part 529 of this chapter.

(6) The term "designated seating position" is used as defined in § 571.3 of this chapter.

(7) As used in this part, unless otherwise required by the context:

(i) "Act means the Motor Vehicle Information and Cost Savings Act (Pub. L. 92-513), as amended by the Energy Policy and Conservation Act (Pub. L. 94-163).

(ii) "Administrator" means the Administrator of the National Highway Traffic Safety Administration or the Administrator's delegate.

(iii) "Current model year" means:

(A) In the case of a pre-model year report, the full model year immediately following the period during which that report is required by § 537.5(b) to be submitted.

(B) In the case of a mid-model year report, the model year during which that report is required by § 537.5(b) to be submitted.

(iv) "Average" means a production-weighted average.

(v) "Sales mix" means the number of automobiles, and the percentage of a manufacturer's annual total production of automobiles, in each inertia weight class, which the manufacturer plans to produce in a specified model year.

(vi) "Total drive ratio" means the ratio of an automobile's engine rotational speed (in revolutions per minute) to the automobile's forward speed (in miles per hour).

§ 537.5 General requirements for reports.

(a) For each current model year, each manufacturer shall submit a pre-model year report, a mid-model year report, and, as required by § 537.8, supplementary reports.

(b)(1) The pre-model year report required by this part for each current model year must be submitted not more than 30 days and not less than 1 day before the 1st day of that model year.

(2) The mid-model year report required by this part for each current model year must be submitted not earlier than the 180th day and not later than the 209th day of that model year.

(3) Each supplementary report must be submitted in accordance with § 537.8(c).

(c) Each report required by this part must:

(1) Identify the report as a pre-model year report, mid-model year report, or supplementary report, as appropriate;

(2) Identify the manufacturer submitting the report;

(3) State the full name, title, and address of the official responsible for preparing the report;

(4) Be submitted in 10 copies to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590;

(5) Identify the current model year;

(6) Be written in the English language; and

[(7) Specify any part of the information or data in the report that the manufacturer believes should be withheld from public disclosure as trade secret or other confidential business information in accordance with Part 512 of this Chapter. (46 F.R. 2063—January 8, 1981. Effective: April 9, 1981)]

(d) Each report required by this part must be based upon all information and data available to the manufacturer 30 days before the report is submitted to the Administrator.

(e)(1) Any manufacturer may provide any item of information or data required by § 537.7 (e) as an estimate, or as a set or range of alternatives.

(2) Any manufacturer submitting estimates, or sets or ranges of alternatives as permitted by paragraph (e)(1) of this section, shall state:

(i) The method for determining them;

(ii) The major uncertainties associated with them; and

(iii) The most likely value in the case of an estimate and the most likely alternative in the case of a set or range of alternatives.

§ 537.6 General content of reports.

(a) *Pre-model year and mid-model year reports.* Except as provided in paragraph (c) of this section, the pre-model year report and the mid-model year report for model year 1978 and each model year thereafter must contain the information required by § 537.7(a).

(b) *Supplementary report.* Each supplementary report must contain the information required by § 537.8(b) (1), (2), or (3), as appropriate.

(c) *Exceptions.*

(1) The pre-model year report for model year 1978 is required to contain only the information specified in § 537.7(b) and (c) (1)-(4) for passenger automobiles and a description of how the manufacturer will use marketing measures to aid in achieving the sales mix of passenger automobiles projected for that model year.

(2) The mid-model year report for model year 1978 is required to contain only the information specified in § 537.7(b)-(e) for passenger automobiles.

(3) The pre-model year report is not required to contain the information specified in § 537.7(b), (c) (1) and (2), or (c) (4) (xiv)-(xvi) and (xxiv) if that report is required to be submitted before the fifth day after the date by which the manufacturer must submit the preliminary determination of its average fuel economy for the current model year to the Environmental Protection Agency under 40 CFR 600.506. Each manufacturer that does not include information under the exception in the immediately preceding sentence shall indicate in its report the date by which it must submit that preliminary determination.

(4) The pre-model year report and the mid-model year report submitted by an incomplete automobile manufacturer for any model year are not required to contain the information specified in § 537.7(c) (4) (xviii)-(xxii) and

(c) (5). The information provided by the incomplete automobile manufacturer under § 537.7(c) and (e) shall be according to base level instead of model type or carline.

§ 537.7 Pre-model year and mid-model year reports.

(a) (1) Provide the information required by paragraphs (b)-(e) of this section for the manufacturer's passenger automobiles for the current model year.

(2) After providing the information required by paragraph (a) (1) of this section, provide the information required by paragraphs (b)-(e) of this section for each class, as specified in Part 533 of this chapter, of the manufacturer's non-passenger automobiles for the current model year.

(b) (1) *Projected average fuel economy.* State the projected average fuel economy for the manufacturer's automobiles determined in accordance with § 537.9 and based upon the fuel economy values and projected sales figures provided under paragraph (c) (2) of this section.

(2) State the projected final average fuel economy that the manufacturer anticipates having if the changes described under paragraph (d) (1) (ii) will cause that average to be different from the average fuel economy projected under paragraph (b) (1) of this section.

(3) State whether the manufacturer believes that the projection it provides under paragraph (b) (2) of this section, or if it does not provide an average under that paragraph, the projection it provides under paragraph (b) (1) of this section, sufficiently represents the manufacturer's average fuel economy for the current model year for the purposes of the Act. In the case of a manufacturer that believes that the projection is not sufficiently representative for those purposes, state the specific nature of and reason for the insufficiency and the specific additional testing for derivation of fuel economy values by analytical methods believed by the manufacturer necessary to eliminate the insufficiency and any plans of the manufacturer to undertake that testing or derivation voluntarily and submit the resulting data to the Environmental Protection Agency under 40 CFR 600.509.

(c) *Model type fuel economy and technical information.* (1) For each model type of the manufacturer's automobiles, provide the information specified in paragraph (c)(2) of this section in tabular form. List the model types in order of increasing average inertia weight from top to bottom down the left side of the table and list the information categories in the order specified in paragraph (c)(2) of this section from left to right across the top of the table.

- (2) (i) City fuel economy;
- (ii) Highway fuel economy;
- (iii) Combined fuel economy; and
- (iv) Projected sales for the current model year.

(3) For each vehicle configuration whose fuel economy was used to calculate the fuel economy values for a model type under paragraph (c)(2) of this section, provide the information specified in paragraph (c)(4) of this section in tabular form. List the vehicle configurations, by model type in the order listed under paragraph (c)(2) of this section, from top to bottom down the left of the table and list the information categories across the top of the table from left to right in the order specified in paragraph (c)(4) of this section.

- (4) (i) Loaded vehicle weight;
- (ii) Inertia weight;
- (iii) Cubic inch displacement of engine;
- (iv) Number of engine cylinders;
- (v) SAE net horsepower;
- (vi) Engine code;
- (vii) Fuel system (number of carburetor barrels or, if fuel injection is used, so indicate);
- (viii) Emission control system;
- (ix) Transmission class;
- (x) Number of forward speeds;
- (xi) Existence of overdrive (indicate yes or no);
- (xii) Total drive ratio;
- (xiii) Axle ratio;
- (xiv) City fuel economy;
- (xv) Highway fuel economy;
- (xvi) Combined fuel economy;
- (xvii) Projected sales for the current model year;
- (xviii) (A) In the case of passenger automobiles, interior volume index, determined

in accordance with Subpart D of 40 CFR Part 600;

(B) In the case of nonpassenger automobiles:

- (1) Passenger-carrying volume, and
- (2) Cargo-carrying volume;
- (xix) Number of designated seating positions;
- (xx) Performance of the function described in § 523.5(a)(5) of this chapter (indicate yes or no);
- (xxi) Existence of temporary living quarters (indicate yes or no);
- (xxii) Body style;
- (xxiii) Frontal area;
- (xxiv) Road load power at 50 miles per hour, if determined by the manufacturer for purposes other than compliance with this Part to differ from the road load setting prescribed in 40 CFR § 86.177-11(d);
- (xxv) Optional equipment which the manufacturer is required under 40 CFR Parts 86 and 600 to have actually installed on the vehicle configuration, or the weight of which must be included in the curb weight computation for the vehicle configuration, for fuel economy testing purposes.
- (5) For each model type of automobile which is classified as an automobile capable of off-highway operation under Part 523 of this chapter, provide the following data:
 - (i) Approach angle;
 - (ii) Departure angle;
 - (iii) Breakover angle;
 - (iv) Axle clearance;
 - (v) Minimum running clearance; and
 - (vi) Existence of 4-wheel drive (indicate yes or no).
- (6) The fuel economy values provided under paragraphs (c)(2) and (4) of this section shall be determined in accordance with § 537.9.
- (d) *Automobile technology and sales mix changes.* (1) For each inertia weight class of the manufacturer's automobiles—
 - (i) Describe the differences between the technology of its automobiles for the current model year and of its automobiles for the immediately preceding model year that result in its automobiles for the current model year

(iii) The most likely value in the case of an estimate and the most likely alternative in the case of a set or range of alternatives.

§ 537.6 General content of reports.

(a) *Pre-model year and mid-model year reports.* Except as provided in paragraph (c) of this section, the pre-model year report and the mid-model year report for model year 1978 and each model year thereafter must contain the information required by § 537.7(a).

(b) *Supplementary report.* Each supplementary report must contain the information required by § 537.8(b) (1), (2), or (3), as appropriate.

(c) *Exceptions.*

(1) The pre-model year report for model year 1978 is required to contain only the information specified in § 537.7(b) and (c) (1)-(4) for passenger automobiles and a description of how the manufacturer will use marketing measures to aid in achieving the sales mix of passenger automobiles projected for that model year.

(2) The mid-model year report for model year 1978 is required to contain only the information specified in § 537.7(b)-(e) for passenger automobiles.

(3) The pre-model year report is not required to contain the information specified in § 537.7(b), (c) (1) and (2), or (c) (4) (xiv)-(xvi) and (xxiv) if that report is required to be submitted before the fifth day after the date by which the manufacturer must submit the preliminary determination of its average fuel economy for the current model year to the Environmental Protection Agency under 40 CFR 600.506. Each manufacturer that does not include information under the exception in the immediately preceding sentence shall indicate in its report the date by which it must submit that preliminary determination.

(4) The pre-model year report and the mid-model year report submitted by an incomplete automobile manufacturer for any model year are not required to contain the information specified in § 537.7(c) (4) (xviii)-(xxii) and

(c) (5). The information provided by the incomplete automobile manufacturer under § 537.7(c) and (e) shall be according to base level instead of model type or carline.

§ 537.7 Pre-model year and mid-model year reports.

(a) (1) Provide the information required by paragraphs (b)-(e) of this section for the manufacturer's passenger automobiles for the current model year.

(2) After providing the information required by paragraph (a) (1) of this section, provide the information required by paragraphs (b)-(e) of this section for each class, as specified in Part 533 of this chapter, of the manufacturer's non-passenger automobiles for the current model year.

(b) (1) *Projected average fuel economy.* State the projected average fuel economy for the manufacturer's automobiles determined in accordance with § 537.9 and based upon the fuel economy values and projected sales figures provided under paragraph (c) (2) of this section.

(2) State the projected final average fuel economy that the manufacturer anticipates having if the changes described under paragraph (d) (1) (ii) will cause that average to be different from the average fuel economy projected under paragraph (b) (1) of this section.

(3) State whether the manufacturer believes that the projection it provides under paragraph (b) (2) of this section, or if it does not provide an average under that paragraph, the projection it provides under paragraph (b) (1) of this section, sufficiently represents the manufacturer's average fuel economy for the current model year for the purposes of the Act. In the case of a manufacturer that believes that the projection is not sufficiently representative for those purposes, state the specific nature of and reason for the insufficiency and the specific additional testing for derivation of fuel economy values by analytical methods believed by the manufacturer necessary to eliminate the insufficiency and any plans of the manufacturer to undertake that testing or derivation voluntarily and submit the resulting data to the Environmental Protection Agency under 40 CFR 600.509.

(c) *Model type fuel economy and technical information.* (1) For each model type of the manufacturer's automobiles, provide the information specified in paragraph (c) (2) of this section in tabular form. List the model types in order of increasing average inertia weight from top to bottom down the left side of the table and list the information categories in the order specified in paragraph (c) (2) of this section from left to right across the top of the table.

- (2) (i) City fuel economy;
- (ii) Highway fuel economy;
- (iii) Combined fuel economy; and
- (iv) Projected sales for the current model year.

(3) For each vehicle configuration whose fuel economy was used to calculate the fuel economy values for a model type under paragraph (c) (2) of this section, provide the information specified in paragraph (c) (4) of this section in tabular form. List the vehicle configurations, by model type in the order listed under paragraph (c) (2) of this section, from top to bottom down the left of the table and list the information categories across the top of the table from left to right in the order specified in paragraph (c) (4) of this section.

- (4) (i) Loaded vehicle weight;
- (ii) Inertia weight;
- (iii) Cubic inch displacement of engine;
- (iv) Number of engine cylinders;
- (v) SAE net horsepower;
- (vi) Engine code;
- (vii) Fuel system (number of carburetor barrels or, if fuel injection is used, so indicate);
- (viii) Emission control system;
- (ix) Transmission class;
- (x) Number of forward speeds;
- (xi) Existence of overdrive (indicate yes or no);
- (xii) Total drive ratio;
- (xiii) Axle ratio;
- (xiv) City fuel economy;
- (xv) Highway fuel economy;
- (xvi) Combined fuel economy;
- (xvii) Projected sales for the current model year;
- (xviii) (A) In the case of passenger automobiles, interior volume index, determined

in accordance with Subpart D of 40 CFR Part 600;

(B) In the case of nonpassenger automobiles:

- (1) Passenger-carrying volume, and
- (2) Cargo-carrying volume;

(xix) Number of designated seating positions;

(xx) Performance of the function described in § 523.5(a) (5) of this chapter (indicate yes or no);

(xxi) Existence of temporary living quarters (indicate yes or no);

(xxii) Body style;

(xxiii) Frontal area;

(xxiv) Road load power at 50 miles per hour, if determined by the manufacturer for purposes other than compliance with this Part to differ from the road load setting prescribed in 40 CFR § 86.177-11(d);

(xxv) Optional equipment which the manufacturer is required under 40 CFR Parts 86 and 600 to have actually installed on the vehicle configuration, or the weight of which must be included in the curb weight computation for the vehicle configuration, for fuel economy testing purposes.

(5) For each model type of automobile which is classified as an automobile capable of off-highway operation under Part 523 of this chapter, provide the following data:

- (i) Approach angle;
- (ii) Departure angle;
- (iii) Breakover angle;
- (iv) Axle clearance;
- (v) Minimum running clearance; and
- (vi) Existence of 4-wheel drive (indicate yes or no).

(6) The fuel economy values provided under paragraphs (c) (2) and (4) of this section shall be determined in accordance with § 537.9.

(d) *Automobile technology and sales mix changes.* (1) For each inertia weight class of the manufacturer's automobiles—

(i) Describe the differences between the technology of its automobiles for the current model year and of its automobiles for the immediately preceding model year that result in its automobiles for the current model year

having higher fuel economy than its automobiles for the immediately preceding model year.

(ii) Describe any running changes that the manufacturer intends to make on its automobiles for the current model year that will affect the fuel economy of those automobiles.

(2) Describe any differences in the projected sales mixes of the inertia weight classes of the manufacturer's automobiles for the current model year and of the manufacturer's automobiles for the immediately preceding model year that result in its automobiles for the current model year having higher average fuel economy than its automobiles for the immediately preceding model year.

(e) *Marketing measures.* (1) Describe and quantify the manufacturer's advertising and automobile base price and equipment option pricing that will tend to aid the manufacturer in improving the average fuel economy of its automobiles for the current model year.

(2) Describe and quantify the manufacturer's dealer incentive programs that have been or will be implemented during the current model year for each carline of the manufacturer's automobiles.

(3) State the total number of dollars spent and to be spent on advertising for the current model year for each carline of the manufacturer's automobiles and, to the extent available, for each model type in that carline.

§ 537.8 Supplementary reports.

(a)(1) Except as provided in paragraph (d) of this section, each manufacturer whose most recently submitted semiannual report contained an average fuel economy projection under § 537.7(b)(2) or, if no average fuel economy was projected under that section, under § 537.7(b)(1), that was not less than the applicable average fuel economy standard and who now projects an average fuel economy which is less than the applicable standard, shall file a supplementary report containing the information specified in paragraph (b)(1) of this section.

(2) Except as provided in paragraph (d) of this section, each manufacturer that determines that its average fuel economy for the

current model year as projected under § 537.7(b)(2) or, if no average fuel economy was projected under that section, as projected under § 537.7(b)(1), is less representative than the manufacturer previously reported it to be under § 537.7(b)(3), this section, or both, shall file a supplementary report containing the information specified in paragraph (b)(2) of this section.

(3) Each manufacturer whose pre-model year report omits any of the information specified in § 537.7(b), (c)(1) and (2), or (c)(4)(xiv)-(xvi) and (xxiv) shall file a supplementary report containing the information specified in paragraph (b)(3) of this section.

(b)(1) The supplementary report required by paragraph (a)(1) of this section must contain:

(i) Such revisions of and additions to the information previously submitted by the manufacturer under this part regarding the automobiles whose projected average fuel economy has decreased as specified in paragraph (a)(1) of this section as are necessary—

(A) To reflect the decrease and its cause;

(B) To describe any expanded use or introduction of technological improvements, production mix changes and marketing measures that the manufacturer intends to make to comply with the applicable average fuel economy standard; and

(C) To indicate a new projected average fuel economy based upon these additional measures.

(ii) An explanation of the cause of the decrease in average fuel economy that led to the manufacturer's having to submit the supplementary report required by paragraph (a)(1) of this section.

(2) The supplementary report required by paragraph (a)(2) of this section must contain—

(i) A statement of the specific nature of and reason for the insufficiency in the representativeness of the projected average fuel economy;

(ii) A statement of specific additional testing or derivation of fuel economy values by analytical methods believed by the manufacturer necessary to eliminate the insufficiency; and

(iii) A description of any plans of the manufacturer to undertake that testing or derivation voluntarily and submit the resulting data to the Environmental Protection Agency under 40 CFR 600.509.

(3) The supplementary report required by paragraph (a)(3) of this section must contain:

(i) All of the information omitted from the pre-model year report under § 537.6(c)(2); and

(ii) Such revisions of and additions to the information submitted by the manufacturer in its pre-model year report regarding the automobiles produced during the current model year as are necessary to reflect the information provided under paragraph (b)(3)(i) of this section.

(c)(1) Each report required by paragraph (a)(1) or (2) of this section must be submitted in accordance with § 537.5(c) not more than 45 days after the date on which the manufacturer determined, or could have determined with reasonable diligence, that a report is required under paragraph (a)(1) or (2) of this section.

(2) Each report required by paragraph (a)(3) of this section must be submitted in accordance with § 537.5(c) not later than five days after the day by which the manufacturer is required to submit a preliminary calculation of its average fuel economy for the current model year to the Environmental Protection Agency under 40 CFR 600.506

(d) A supplementary report is not required to be submitted by the manufacturer under paragraphs (a)(1) or (2) of this section:

(1) With respect to information submitted under this Part before the most recent semi-annual report submitted by the manufacturer under this Part, or

(2) When the date specified in paragraph (c) of this section occurs:

(i) During the 60-day period immediately preceding the day by which the mid-model year report for the current model year must

be submitted by the manufacturer under this Part, or

(ii) After the day by which the pre-model year report for the model year immediately following the current model year must be submitted by the manufacturer under this Part.

§ 537.9 Determination of fuel economy values and average fuel economy.

(a) *Vehicle configuration fuel economy values.*

(1) For each vehicle configuration for which a fuel economy value is required under paragraph (c) of this section and has been determined and approved under 40 CFR Part 600, the manufacturer shall submit that fuel economy value.

(2) For each vehicle configuration specified in paragraph (a)(1) of this section for which a fuel economy value approved under 40 CFR 600 does not exist, but for which a fuel economy value determined under that Part exists, the manufacturer shall submit that fuel economy value.

(3) For each vehicle configuration specified in paragraph (a)(1) of this section for which a fuel economy value has been neither determined nor approved under 40 CFR Part 600, the manufacturer shall submit a fuel economy value based on tests or analyses comparable to those prescribed or permitted under 40 CFR Part 600 and a description of the test procedures or analytical methods used.

(b) *Base level and model type fuel economy values.*

For each base level and model type, the manufacturer shall submit a fuel economy value based on values submitted under paragraph (a) of this section and calculated in the same manner as base level and model type fuel economy values are calculated for use under Subpart F of 40 CFR Part 600.

(c) *Average fuel economy.*

Average fuel economy must be based upon fuel economy values calculated under paragraph (b) of this section for each model type and must be calculated in accordance with 40 CFR 600.506, using the configuration specified in 40 CFR 600.506(a)(2), except that fuel economy values

having higher fuel economy than its automobiles for the immediately preceding model year.

(ii) Describe any running changes that the manufacturer intends to make on its automobiles for the current model year that will affect the fuel economy of those automobiles.

(2) Describe any differences in the projected sales mixes of the inertia weight classes of the manufacturer's automobiles for the current model year and of the manufacturer's automobiles for the immediately preceding model year that result in its automobiles for the current model year having higher average fuel economy than its automobiles for the immediately preceding model year.

(e) *Marketing measures.* (1) Describe and quantify the manufacturer's advertising and automobile base price and equipment option pricing that will tend to aid the manufacturer in improving the average fuel economy of its automobiles for the current model year.

(2) Describe and quantify the manufacturer's dealer incentive programs that have been or will be implemented during the current model year for each carline of the manufacturer's automobiles.

(3) State the total number of dollars spent and to be spent on advertising for the current model year for each carline of the manufacturer's automobiles and, to the extent available, for each model type in that carline.

§ 537.8 Supplementary reports.

(a)(1) Except as provided in paragraph (d) of this section, each manufacturer whose most recently submitted semiannual report contained an average fuel economy projection under § 537.7 (b)(2) or, if no average fuel economy was projected under that section, under § 537.7(b)(1), that was not less than the applicable average fuel economy standard and who now projects an average fuel economy which is less than the applicable standard, shall file a supplementary report containing the information specified in paragraph (b)(1) of this section.

(2) Except as provided in paragraph (d) of this section, each manufacturer that determines that its average fuel economy for the

current model year as projected under § 537.7 (b)(2) or, if no average fuel economy was projected under that section, as projected under § 537.7(b)(1), is less representative than the manufacturer previously reported it to be under § 537.7(b)(3), this section, or both, shall file a supplementary report containing the information specified in paragraph (b)(2) of this section.

(3) Each manufacturer whose pre-model year report omits any of the information specified in § 537.7(b), (c)(1) and (2), or (c)(4) (xiv)-(xvi) and (xxiv) shall file a supplementary report containing the information specified in paragraph (b)(3) of this section.

(b)(1) The supplementary report required by paragraph (a)(1) of this section must contain:

(i) Such revisions of and additions to the information previously submitted by the manufacturer under this part regarding the automobiles whose projected average fuel economy has decreased as specified in paragraph (a)(1) of this section as are necessary—

(A) To reflect the decrease and its cause;

(B) To describe any expanded use or introduction of technological improvements, production mix changes and marketing measures that the manufacturer intends to make to comply with the applicable average fuel economy standard; and

(C) To indicate a new projected average fuel economy based upon these additional measures.

(ii) An explanation of the cause of the decrease in average fuel economy that led to the manufacturer's having to submit the supplementary report required by paragraph (a)(1) of this section.

(2) The supplementary report required by paragraph (a)(2) of this section must contain—

(i) A statement of the specific nature of and reason for the insufficiency in the representativeness of the projected average fuel economy;

(ii) A statement of specific additional testing or derivation of fuel economy values by analytical methods believed by the manufacturer necessary to eliminate the insufficiency; and

(iii) A description of any plans of the manufacturer to undertake that testing or derivation voluntarily and submit the resulting data to the Environmental Protection Agency under 40 CFR 600.509.

(3) The supplementary report required by paragraph (a)(3) of this section must contain:

(i) All of the information omitted from the pre-model year report under § 537.6(c)(2); and

(ii) Such revisions of and additions to the information submitted by the manufacturer in its pre-model year report regarding the automobiles produced during the current model year as are necessary to reflect the information provided under paragraph (b)(3)(i) of this section.

(c)(1) Each report required by paragraph (a)(1) or (2) of this section must be submitted in accordance with § 537.5(c) not more than 45 days after the date on which the manufacturer determined, or could have determined with reasonable diligence, that a report is required under paragraph (a)(1) or (2) of this section.

(2) Each report required by paragraph (a)(3) of this section must be submitted in accordance with § 537(c) not later than five days after the day by which the manufacturer is required to submit a preliminary calculation of its average fuel economy for the current model year to the Environmental Protection Agency under 40 CFR 600.506

(d) A supplementary report is not required to be submitted by the manufacturer under paragraphs (a)(1) or (2) of this section:

(1) With respect to information submitted under this Part before the most recent semi-annual report submitted by the manufacturer under this Part, or

(2) When the date specified in paragraph (c) of this section occurs:

(i) During the 60-day period immediately preceding the day by which the mid-model year report for the current model year must

be submitted by the manufacturer under this Part, or

(ii) After the day by which the pre-model year report for the model year immediately following the current model year must be submitted by the manufacturer under this Part.

§ 537.9 Determination of fuel economy values and average fuel economy.

(a) *Vehicle configuration fuel economy values.*

(1) For each vehicle configuration for which a fuel economy value is required under paragraph (c) of this section and has been determined and approved under 40 CFR Part 600, the manufacturer shall submit that fuel economy value.

(2) For each vehicle configuration specified in paragraph (a)(1) of this section for which a fuel economy value approved under 40 CFR 600 does not exist, but for which a fuel economy value determined under that Part exists, the manufacturer shall submit that fuel economy value.

(3) For each vehicle configuration specified in paragraph (a)(1) of this section for which a fuel economy value has been neither determined nor approved under 40 CFR Part 600, the manufacturer shall submit a fuel economy value based on tests or analyses comparable to those prescribed or permitted under 40 CFR Part 600 and a description of the test procedures or analytical methods used.

(b) *Base level and model type fuel economy values.*

For each base level and model type, the manufacturer shall submit a fuel economy value based on values submitted under paragraph (a) of this section and calculated in the same manner as base level and model type fuel economy values are calculated for use under Subpart F of 40 CFR Part 600.

(c) *Average fuel economy.*

Average fuel economy must be based upon fuel economy values calculated under paragraph (b) of this section for each model type and must be calculated in accordance with 40 CFR 600.506, using the configuration specified in 40 CFR 600.506(a)(2), except that fuel economy values

for running changes and for new base levels are required only for those changes made or base levels added before the average fuel economy is required to be submitted under this Part.

§ 537.10 Incorporation by reference.

(a) A manufacturer may incorporate by reference in a report required by this Part any document other than a report, petition, or application, or portion thereof submitted to any Federal department or agency more than two model years before the current model year.

(b) A manufacturer that incorporates by reference a document not previously submitted to the National Highway Traffic Safety Administration shall append that document to the report.

(c) A manufacturer that incorporates by reference a document shall clearly identify the document, and, in the case of a document previously submitted to the National Highway Traffic Safety Administration, indicate the date on which, and

the person by whom, the document was submitted to this agency.

§ 537.11 Public inspection of information.

[(a) Except as provided in paragraph (b), any person may inspect the information and data submitted by a manufacturer under this part in the docket section of the National Highway Traffic Safety Administration. Any person may obtain copies of the information available for inspection under this section in accordance with the regulations of the Secretary of Transportation in Part 7 of this title.

(b) Except for the release of confidential information authorized by section 505 of the Act and Part 512 of this Chapter, information made available under paragraph (a) for public inspection does not include information for which confidentiality is requested under § 537.5(c)(7) and is granted in accordance with Part 512 of this Chapter, section 505 of the Act, and section 552(b) of Title 5 of the United States Code. (46 F.R. 2063—January 8, 1981. Effective: April 9, 1981)]

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PREAMBLE TO PART 351—PROCEDURAL RULES

(Docket No. 4)

The purpose of this rule-making action is to adopt new Part 351—General Procedural Rules.

The new part will eventually contain the rules on those matters that are common to all procedures. At this time only the rules governing submittals in writing, and governing service of process on designated agents of foreign manufacturers, are being adopted.

The rules governing submittals in writing are those considered necessary for the efficient handling of business. These rules apply, of course, to written comments on notices of proposed rule-making. Designation of agents by foreign manufacturers to receive service of process is required by section 110(e) of the National Traffic and Motor Vehicle Safety Act of 1966, and the rules implement this provision. Both groups of rules are self-explanatory. Since these rules are procedural in character, notice of proposed rule-making is not required (5 U.S.C. 553(b)).

In consideration of the foregoing, Chapter II of Title 49 of the Code of Federal Regulations is amended by inserting, in Subchapter B, a new part as set forth below. This action is taken under the authority of sections 110(e) and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (80 Stat. 718); 23 U.S.C. section 315 and chapter 4; and the delegation of authority of October 20, 1966 (31 F.R. 13952).

These rules become effective December 20, 1966.

Issued in Washington, D.C., on December 15, 1966.

**Alan S. Boyd,
Under Secretary of Commerce
for Transportation**

SUBPART A—GENERAL

Sec.

351.1 Scope.

SUBPART B—[RESERVED]

351.31 Form of communications.

351.33 Address of communications.

351.35 Subscription of communications.

351.37 Language of communications.

SUBPART D—SERVICE OF PROCESS; AGENTS

351.41 [Reserved]

351.43 [Reserved]

351.45 Service of process on foreign manufacturers and importers

AUTHORITY: The provisions of this Part 351 issued under secs. 110(e), 119, 80 Stat. 719, 728; 15 U.S.C. 1399, 1407, 23 U.S.C. 315, 401-404; Delegation of Authority, 31 F.R. 13952, 32 F.R. 5606.

31 F.R. 16267

December 20, 1966

PREAMBLE TO PART 551—PROCEDURAL RULES

(Docket No. 4)

The purpose of this rule-making action is to adopt new Part 351—General Procedural Rules.

The new part will eventually contain the rules on those matters that are common to all procedures. At this time only the rules governing submittals in writing, and governing service of process on designated agents of foreign manufacturers, are being adopted.

The rules governing submittals in writing are those considered necessary for the efficient handling of business. These rules apply, of course, to written comments on notices of proposed rule-making. Designation of agents by foreign manufacturers to receive service of process is required by section 110(e) of the National Traffic and Motor Vehicle Safety Act of 1966, and the rules implement this provision. Both groups of rules are self-explanatory. Since these rules are procedural in character, notice of proposed rule-making is not required (5 U.S.C. 553(b)).

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31 F.R. 16267
December 20, 1966

PREAMBLE TO AMENDMENT TO PART 551—PROCEDURAL RULES

Parts 501, 551, and 553 of Title 49, Code of Federal Regulations, currently detail the delegated powers, general procedures, and rulemaking procedures utilized by the National Highway Traffic Safety Administration (NHTSA) to implement the National Traffic and Motor Vehicle Safety Act of 1966, Public Law 89-563. The Motor Vehicle Information and Cost Savings Act, Public Law 92-513, vests additional authority in the NHTSA. This amendment extends the applicability of Parts 501, 551, and 553 to the Cost Savings Act to establish uniform rulemaking procedures for both Acts.

Accordingly, amendments are made to 49 CFR, Part 501, "Organization and delegation of powers and duties", Part 551, "Procedural rules", and Part 553, "Rulemaking procedures: motor vehicle safety standards". . . .

Since this amendment relates to NHTSA organization, procedures, and practices, it is

found that notice and public procedure thereon are unnecessary.

Effective date: July 27, 1973. Because this notice is only an extension of existing procedures to new areas of jurisdiction, it is found that an immediate effective date is in the public interest.

(Secs. 9, Pub. L. 89-670, 80 Stat. 944, 49 U.S.C. 1657; 103, 119, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1407; 102, 105, 201, 205, 302, and 408, Pub. L. 92-513, 86 Stat. 947, 15 U.S.C. 1912, 1915, 1941, 1945, 1962, and 1988; delegation of authority at 38 FR 12147).

Issued on July 23, 1973.

James E. Wilson
Associate Administrator
Traffic Safety Programs

38 F.R. 20086
July 27, 1973

PREAMBLE TO AMENDMENT TO PART 551—PROCEDURAL RULES

Parts 501, 551, and 553 of Title 49, Code of Federal Regulations, currently detail the delegated powers, general procedures, and rulemaking procedures utilized by the National Highway Traffic Safety Administration (NHTSA) to implement the National Traffic and Motor Vehicle Safety Act of 1966, Public Law 89-563. The Motor Vehicle Information and Cost Savings Act, Public Law 92-513, vests additional authority in the NHTSA. This amendment extends the applicability of Parts 501, 551, and 553 to the Cost Savings Act to establish uniform rulemaking procedures for both Acts.

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Associate Administrator
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38 F.R. 20086
July 27, 1973

PART 551—PROCEDURAL RULES

SUBPART A—GENERAL

§ 551.1. Scope.

This part contains rule of procedure generally applicable to the transaction of official business under the National Traffic and Motor Vehicle Safety Act of 1966, the Motor Vehicle Information and Cost Savings Act, and the Highway Safety Act of 1966. These rules apply in addition to the rules governing specific proceedings. In case of inconsistency with these general rules, the specific rules prevail.

SUBPART B—[RESERVED]

SUBPART C—SUBMITTALS IN WRITING

§ 551.31 Form of Communications.

Any communication in writing relating to official business (including formal documents) shall be on opaque and durable paper not larger than 9 by 14 inches in size. Tables, charts, or originals of other documents that are attached to communications shall be folded to this size, if possible. The left margin of communications shall be at least 1½ inches wide, and if a communication is bound, it shall be bound on the left side. All copies submitted shall be legible.

§ 551.33

Unless otherwise specified, communications shall be addressed to the Administrator, National Highway Traffic Safety Administration, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications may not be addressed to a staff member's private address.

§ 551.35 Subscription of communications.

Each communication shall be signed in ink and shall disclose the full legal name and address of the person signing it and, if he is an agent, of his principal.

§ 551.37 Language of communications.

Communications and attachments thereto shall be in English. Any matter written in a foreign language will be considered only if accompanied by a translation into English. A translation shall bear a certificate by the translator certifying that he is qualified to make the translation; that the translation is complete except as otherwise clearly indicated; and that it is accurate to the best of the translator's knowledge and belief. The translator shall sign the certificate in ink and state his full, legal name, occupation and address.

SUBPART D—SERVICE OF PROCESS; AGENTS

§ 551.41 [Reserved]

§ 551.43 [Reserved]

§ 551.45 Service of process on foreign manufacturers and importers.

(a) *Designation of agent for service.* Any manufacturer, assembler or importer of motor vehicles or motor vehicle equipment (hereinafter called manufacturer) before offering a motor vehicle or item of motor vehicle equipment for importation into the United States, shall designate a permanent resident of the United States as his agent upon whom service of all processes, notices, orders, decisions, and requirements may be made for him and on his behalf as provided in section 110(e) of the National Traffic and Motor Vehicle Safety Act of 1966 (80 Stat. 718) and in this section. The agent may be an individual, a firm, or a domestic corporation. Any number of manufacturers may designate the same person as agent.

(b) *Form and contents of designation.* The designation shall be addressed to the Administrator, National Highway Traffic Safety Administration, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590. It shall be in writing and dated; all

signatures shall be in ink. The designation shall be made in legal form required to make it valid, and binding on the laws, or other requirements governing the making of the designation by the manufacturer at the place and time where it is made, and the person or persons signing the designation shall certify that it is so made. The designation shall disclose the full legal name, principal place of business, and mailing address of the manufacturer. If any of the products of the manufacturer do not bear his legal name, the marks, trade names, or other designations of origin which these products bear shall be stated in the designation. The designation of agent shall provide that it remains in effect until withdrawn or replaced by the manufacturer. The designation shall bear a declaration of acceptance duly signed by the designated agent. The full legal name and mailing address of the agent shall be stated. Designations are binding on the manufacturer even when not in compliance with all requirements of this section

until rejected by the Administrator. The designated agent may not assign performance of his functions under the designation to another person.

(c) *Method of service.* Service of any process, notice, order, requirement, or decision specified in section 110(e) of the National Traffic and Motor Vehicle Safety Act of 1966 may be made by registered or certified mail addressed to the agent, with return receipt requested, or in any other manner authorized by law. If service cannot be effected because the agent has died (or, if a firm or a corporation ceased to exist) or moved, or otherwise does not receive correctly addressed mail, service may be made by posting as provided in section 110(e).

31 F.R. 16267-8
December 20, 1966

PART 551—PROCEDURAL RULES

SUBPART A—GENERAL

§ 551.1. Scope.

This part contains rule of procedure generally applicable to the transaction of official business under the National Traffic and Motor Vehicle Safety Act of 1966, the Motor Vehicle Information and Cost Savings Act, and the Highway Safety Act of 1966. These rules apply in addition to the rules governing specific proceedings. In case of inconsistency with these general rules, the specific rules prevail.

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(b) *Form and contents of designation.* The designation shall be addressed to the Administrator, National Highway Traffic Safety Administration, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590. It shall be in writing and dated; all

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until rejected by the Administrator. The designated agent may not assign performance of his functions under the designation to another person.

(c) *Method of service.* Service of any process, notice, order, requirement, or decision specified in section 110(e) of the National Traffic and Motor Vehicle Safety Act of 1966 may be made by registered or certified mail addressed to the agent, with return receipt requested, or in any other manner authorized by law. If service cannot be effected because the agent has died (or, if a firm or a corporation ceased to exist) or moved, or otherwise does not receive correctly addressed mail, service may be made by posting as provided in section 110(e).

31 F.R. 16267-8
December 20, 1966

PREAMBLE TO PART 552—PETITIONS FOR RULEMAKING, DEFECT, AND NONCOMPLIANCE ORDERS

(Docket No. 75-12; Notice 2)

This notice establishes a new regulation specifying the requirements for submission of petitions for rulemaking, and petitions for the commencement of defect or non-compliance proceedings in accordance with section 124 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1410a. It also describes the procedures the NHTSA will follow in acting upon such petitions.

The notice of proposed rulemaking on which this issuance is based was issued on May 16, 1975 (40 CFR 21486), in response to which eight comments were received. After careful consideration of those comments, the NHTSA has determined that no substantial change from the proposal is called for in the language of the rule.

Most of the comments received in response to the proposed resolution supported the establishment of some kind of regulation with respect to petitions for rulemaking. American Motors supported the proposal without qualification, while the other commenters suggested changes of varying import.

The Center for Auto Safety argued that the proposed rule was too narrow, as it did not deal with petitions to close defect investigations. Section 124 of the Act, upon which Part 552 is based, establishes formal requirements for petitions in the major areas of agency activity under the Act: petitions to "commence proceedings" concerning the issuance, amendment, or revocation of a motor vehicle safety standard, and petitions to "commence proceedings" concerning the issuance of an order with respect to the failure to comply with a safety standard or the existence of a safety-related defect. These are in fact the main areas in which petitions have been received by the agency in the past. Section 124 indicates an intent of Congress to provide,

and at the same time to limit, formal "petition treatment" to these areas. This treatment includes a statutory deadline for action, and Federal Register publication of reasons for denial. A corollary of this Congressional intent is that an informal response by the agency to other types of requests for action is satisfactory. Accordingly, such other requests will not be treated as petitions, but will be handled informally (as in the past) under existing correspondence or other appropriate NHTSA procedures.

The Center for Auto Safety also urged that, upon denial of a petition, the NHTSA should be required to provide the reasons for the denial in specific detail. This suggestion is outside the intent of the statutory provision, and without merit. A full discussion of the agency's reasons for denial of a petition is provided to the petitioner, and copies of such a denial letter are (except for confidential matter) generally available to any person upon request. This agency does not find any intent of Congress to require the full text of denial letters to be printed in the Federal Register. The NHTSA practice of publishing a summary of its reasons for a denial appears to satisfy both the letter and the spirit of section 124. The reason for the provision is to make the agency publicly accountable and "responsible" (from the title of the section) for its negative decisions, as it naturally is for its positive ones. A person who, put on notice by the Federal Register publication, wishes to delve more deeply into the background of the matter may readily do so by requesting further information from the agency.

General Motors objected to the use of the "reasonable possibility" standard in determining whether to grant or deny a petition because it would allow for the granting of virtually any

petition. The NHTSA does not agree. It should be remembered that the grant of a petition under this part leads only to the commencement of agency action to gather information necessary to make a decision. The use of the modifier "reasonable" limits the discretion of the Administrator to grant only a petition for an order or rule that has a reasonable chance of being issued, not a petition for any order or rule that may conceivably be issued. The substitution of the term "reasonable probability," as urged by GM, would tend to transform a threshold decision as to whether or not the rule or order *might* issue into a determination of whether or not it *should* issue. Such a result would dilute the intent of both section 124 and Part 552 to provide means for interested parties, without access to complete data, to seek remedial action regarding what they consider to be defective or unsafe characteristics of motor vehicles.

GM also urged that a petitioner be required to verify the facts alleged in the petition before any information requests are made to the manufacturer. Such a requirement would preclude the granting of a petition submitted by an individual or organization with limited resources. The technical review conducted by the Associate Administrator necessarily includes an analysis of the facts alleged in the petition. If he determines that the facts need verification by the petitioner, he has the discretion to request that the petitioner submit additional information. However, to require such information as a condition precedent to granting the petition would not only unduly burden the petitioner, but also would exceed the statutory requirement that the petition merely set forth the facts which it is claimed establish the necessity of an order, not that it prove those facts.

The Recreation Vehicle Industry Association (RVIA) objected to the provision denying cross examination of witnesses at hearings held on petitions under Part 552. It is well established that the NHTSA may hold informal hearings under the Traffic Safety Act, in cases such as *Automotive Parts & Accessories Ass'n, Inc. v. Boyd*, 407 F.2d 330, 334 (D.C. Cir. 1968). The purpose of an informal hearing is to permit the NHTSA to determine whether or not a petitioner

has a valid complaint or request for rulemaking. This purpose is best served by allowing both sides to present information and arguments without the necessity for conforming to strict evidentiary rules. In addition, the drafters of section 124 intended to encourage the free use of the petition procedure in alerting the NHTSA to vehicle safety problems. The possibility of having to submit to rigorous cross-examination might deter many potential petitioners from utilizing this procedure. Accordingly, the provision allowing for an informal hearing has been retained intact.

The RVIA also argued that the manufacturer be allowed to respond to the petition before the Administrator decided whether to grant or deny it. Such a proposal misapprehends the purpose of the petition and ignores the opportunities a manufacturer has to respond to adverse information submitted in a petition. If the NHTSA denies the petition, there is no need for response as there is no action adverse to the manufacturer. If the petition is granted, the applicable rulemaking and investigatory procedures are commenced, with full opportunity for the manufacturer to present data and arguments against the proposed rule or order. As noted above, the purpose of the technical review is to facilitate a threshold decision as to whether an order or rule might issue, not whether it will. Thus it is not necessary to consider the comments of the manufacturer before deciding whether to grant or deny.

The proposed time for Federal Register publication of notice of a denial of a petition was 30 days. In order to allow time to prepare a monthly publication of a notice of denials, in the interest of efficiency and conservation of Federal Register space, this period is set at 45 days.

In light of the foregoing, Title 49, Code of Federal Regulation, is amended by the addition of a new Part 552, *Petitions for Rulemaking, Defect, and Noncompliance Orders*. . . .

Effective date: September 4, 1975.

Issued on September 4, 1975.

James B. Gregory
Administrator

40 F.R. 42013
September 10, 1975

PREAMBLE TO PART 552—PETITIONS FOR RULEMAKING, DEFECT, AND NONCOMPLIANCE ORDERS

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The Center for Auto Safety argued that the proposed rule was too narrow, as it did not deal with petitions to close defect investigations. Section 124 of the Act, upon which Part 552 is based, establishes formal requirements for petitions in the major areas of agency activity under the Act: petitions to "commence proceedings" concerning the issuance, amendment, or revocation of a motor vehicle safety standard, and petitions to "commence proceedings" concerning the issuance of an order with respect to the failure to comply with a safety standard or the existence of a safety-related defect. These are in fact the main areas in which petitions have been received by the agency in the past. Section 124 indicates an intent of Congress to provide,

and at the same time to limit, formal "petition treatment" to these areas. This treatment includes a statutory deadline for action, and Federal Register publication of reasons for denial. A corollary of this Congressional intent is that an informal response by the agency to other types of requests for action is satisfactory. Accordingly, such other requests will not be treated as petitions, but will be handled informally (as in the past) under existing correspondence or other appropriate NHTSA procedures.

The Center for Auto Safety also urged that, upon denial of a petition, the NHTSA should be required to provide the reasons for the denial in specific detail. This suggestion is outside the intent of the statutory provision, and without merit. A full discussion of the agency's reasons for denial of a petition is provided to the petitioner, and copies of such a denial letter are (except for confidential matter) generally available to any person upon request. This agency does not find any intent of Congress to require the full text of denial letters to be printed in the Federal Register. The NHTSA practice of publishing a summary of its reasons for a denial appears to satisfy both the letter and the spirit of section 124. The reason for the provision is to make the agency publicly accountable and "responsible" (from the title of the section) for its negative decisions, as it naturally is for its positive ones. A person who, put on notice by the Federal Register publication, wishes to delve more deeply into the background of the matter may readily do so by requesting further information from the agency.

General Motors objected to the use of the "reasonable possibility" standard in determining whether to grant or deny a petition because it would allow for the granting of virtually any

petition. The NHTSA does not agree. It should be remembered that the grant of a petition under this part leads only to the commencement of agency action to gather information necessary to make a decision. The use of the modifier "reasonable" limits the discretion of the Administrator to grant only a petition for an order or rule that has a reasonable chance of being issued, not a petition for any order or rule that may conceivably be issued. The substitution of the term "reasonable probability," as urged by GM, would tend to transform a threshold decision as to whether or not the rule or order *might* issue into a determination of whether or not it *should* issue. Such a result would dilute the intent of both section 124 and Part 552 to provide means for interested parties, without access to complete data, to seek remedial action regarding what they consider to be defective or unsafe characteristics of motor vehicles.

GM also urged that a petitioner be required to verify the facts alleged in the petition before any information requests are made to the manufacturer. Such a requirement would preclude the granting of a petition submitted by an individual or organization with limited resources. The technical review conducted by the Associate Administrator necessarily includes an analysis of the facts alleged in the petition. If he determines that the facts need verification by the petitioner, he has the discretion to request that the petitioner submit additional information. However, to require such information as a condition precedent to granting the petition would not only unduly burden the petitioner, but also would exceed the statutory requirement that the petition merely set forth the facts which it is claimed establish the necessity of an order, not that it prove those facts.

The Recreation Vehicle Industry Association (RVIA) objected to the provision denying cross examination of witnesses at hearings held on petitions under Part 552. It is well established that the NHTSA may hold informal hearings under the Traffic Safety Act, in cases such as *Automotive Parts & Accessories Ass'n, Inc. v. Boyd*, 407 F.2d 330, 334 (D.C. Cir. 1968). The purpose of an informal hearing is to permit the NHTSA to determine whether or not a petitioner

has a valid complaint or request for rulemaking. This purpose is best served by allowing both sides to present information and arguments without the necessity for conforming to strict evidentiary rules. In addition, the drafters of section 124 intended to encourage the free use of the petition procedure in alerting the NHTSA to vehicle safety problems. The possibility of having to submit to rigorous cross-examination might deter many potential petitioners from utilizing this procedure. Accordingly, the provision allowing for an informal hearing has been retained intact.

The RVIA also argued that the manufacturer be allowed to respond to the petition before the Administrator decided whether to grant or deny it. Such a proposal misapprehends the purpose of the petition and ignores the opportunities a manufacturer has to respond to adverse information submitted in a petition. If the NHTSA denies the petition, there is no need for response as there is no action adverse to the manufacturer. If the petition is granted, the applicable rulemaking and investigatory procedures are commenced, with full opportunity for the manufacturer to present data and arguments against the proposed rule or order. As noted above, the purpose of the technical review is to facilitate a threshold decision as to whether an order or rule might issue, not whether it will. Thus it is not necessary to consider the comments of the manufacturer before deciding whether to grant or deny.

The proposed time for Federal Register publication of notice of a denial of a petition was 30 days. In order to allow time to prepare a monthly publication of a notice of denials, in the interest of efficiency and conservation of Federal Register space, this period is set at 45 days.

In light of the foregoing, Title 49, Code of Federal Regulation, is amended by the addition of a new Part 552, *Petitions for Rulemaking, Defect, and Noncompliance Orders. . . .*

Effective date: September 4, 1975.

Issued on September 4, 1975.

James B. Gregory
Administrator

40 F.R. 42013
September 10, 1975

PART 552—PETITIONS FOR RULEMAKING, DEFECT, AND NONCOMPLIANCE ORDERS

Sec.

- 552.1 Scope.**
- 552.2 Purpose.**
- 552.3 General.**
- 552.4 Requirements for Petition.**
- 552.5 Improperly filed petitions.**
- 552.6 Technical review.**
- 552.7 Public hearing.**
- 552.8 Determination whether to commence a proceeding.**
- 552.9 Grant of petition.**
- 552.10 Denial of petition.**

AUTHORITY: Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718, (15 U.S.C. 1392, 1407); Sec. 124, 152 Pub. L. 93-492, 88 Stat. 1470, (15 U.S.C. 1410a, 1412); delegation of authority at 49 CFR 1.51.

§ 552.1 Scope. This part establishes procedures for the submission and disposition of petitions filed by interested persons pursuant to the National Traffic and Motor Vehicle Safety Act and the Motor Vehicle Information and Cost Savings Act, to initiate rulemaking or to make a determination that a motor vehicle or item of replacement equipment does not comply with an applicable Federal motor vehicle safety standard or contains a defect which relates to motor vehicle safety.

§ 552.2 Purpose. The purpose of this part is to enable the National Highway Traffic Safety Administration to identify and respond on a timely basis to petitions for rulemaking or defect or noncompliance determinations, and to inform the public of the procedures following in response to such petitions.

§ 552.3 General. Any interested person may file with the Administrator a petition requesting him (1) to commence a proceeding respecting the issuance, amendment, or revocation of a motor vehicle safety standard, or (2) to commence a proceeding to determine whether to issue an order concerning the notification and remedy of a failure of a motor vehicle or item of replacement equipment to comply with an applicable motor vehicle safety standard or a defect in such vehicle or equipment that relates to motor vehicle safety.

§ 552.4 Requirements for petition. A petition filed under this part should be addressed and submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Each petition filed under this part must—

- (a) Be written in the English language;
- (b) Have, preceding its text, a heading that includes the word "Petition";
- (c) Set forth facts which it is claimed establish that an order is necessary;
- (d) Set forth a brief description of the substance of the order which it is claimed should be issued; and
- (e) Contain the name and address of the petitioner.

§ 552.5 Improperly filed petitions. (a) A petition that is not addressed as specified in § 552.4, but that meets the other requirements of that section, will be treated as a properly filed petition, received as of the time it is discovered and identified.

(b) A document that fails to conform to one or more of the requirements of 552.4(a) through (e) will not be treated as a petition under this part. Such a document will be treated according

to the existing correspondence or other appropriate procedures of the NHTSA, and any suggestions contained in it will be considered at the discretion of the Administrator or his delegate.

§ 552.6 Technical review. The appropriate Associate Administrator conducts a technical review of the petition, to determine whether there is a reasonable possibility that the requested order will be issued at the conclusion of the appropriate proceeding. The technical review may consist of an analysis of the material submitted, together with information already in the possession of the agency, or it may also include the collection of additional information, or a public meeting in accordance with § 552.7.

§ 552.7 Public meeting. If the Associate Administrator decides that a public meeting on the subject of the petition would contribute to the determination whether to commence a proceeding, he issues a notice of public meeting for publication in the Federal Register to advise interested persons of the time, place, and subject matter of the public meeting and invite their participation. Interested persons may submit their views and evidence through oral or written presentations, or both. There is no cross examination of witnesses. A transcript of the meeting is kept and exhibits may be accepted as part of the transcript. Sections 556 and 557 of Title 5, United States Code, do not apply to meetings held under this part. The Chief Counsel designates a member of his staff to serve as legal officer at the meeting.

§ 552.8 Determination whether to commence a proceeding. At the conclusion of the technical review, the Administrator or his delegate deter-

mines whether there is a reasonable possibility that the order requested in the petition will be issued at the conclusion of the appropriate proceeding. If such a reasonable possibility is found, the petition is granted. If it is not found, the petition is denied. In either event, the petitioner is notified of the grant or denial not more than 120 days after receipt of the petition by the NHTSA.

§ 551.9 Grant of petition. (a) If a petition for rulemaking with respect to a motor vehicle safety standard is granted, a rulemaking proceeding is promptly commenced in accordance with applicable NHTSA and statutory procedures. The granting of such a petition and the commencement of a rulemaking proceeding does not signify, however, that the rule in question will be issued. A decision as to the issuance of the rule is made on the basis of all available information developed in the course of the rulemaking proceeding, in accordance with statutory criteria.

(b) If a petition with respect to a noncompliance or a defect is granted, a proceeding to determine the existence of the noncompliance or defect is promptly commenced by the initiation of an investigation by the Office of Standards Enforcement or the Office of Defects Investigation, as appropriate.

§ 552.10 Denial of petition. If a petition is denied, a Federal Register notice of the denial is issued within 45 days of the denial, setting forth the reasons for denial of the petition.

40 F.R. 42013
September 10, 1975

PART 552—PETITIONS FOR RULEMAKING, DEFECT, AND NONCOMPLIANCE ORDERS

Sec.

- 552.1 Scope.**
- 552.2 Purpose.**
- 552.3 General.**
- 552.4 Requirements for Petition.**
- 552.5 Improperly filed petitions.**
- 552.6 Technical review.**
- 552.7 Public hearing.**
- 552.8 Determination whether to commence a proceeding.**
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§ 552.10 Denial of petition. If a petition is denied, a Federal Register notice of the denial is issued within 45 days of the denial, setting forth the reasons for denial of the petition.

40 F.R. 42013
September 10, 1975

PREAMBLE TO PART 553—RULEMAKING PROCEDURES: MOTOR VEHICLE SAFETY STANDARDS

This amendment revokes "Part 215—Rule-Making; Initial Safety Standards," 31 F.R. 13127, as amended, in 31 F.R. 15197, 32 F.R. 976, 32 F.R. 5832, and 32 F.R. 13000, and adds a new Part 353—"Rule-Making Procedures: Motor Vehicle Safety Standards" to the regulations of the Federal Highway Administration.

The purpose of this part is to describe the procedures applicable to the Federal Highway Administration in prescribing public rules for motor vehicle safety standards and to provide for appropriate participation by interested persons.

The new part provides for general notices of proposed rule making, to be published in the *Federal Register*, except in cases where the Administration finds that notice is impractical, unnecessary or contrary to the public interest. The new part also provides for petitions for extension of time to comment on notices of proposed rule making, petitions for reconsideration, and petitions for proposed rule making.

Sections 556 and 557 of Title 5, United States Code (formerly sections 7 and 8 of the Administrative Procedure Act), do not apply to rule making under this part. Consequently, hearings are not a required part of the rule-making procedure. However, hearings may be held, whenever it is considered necessary and desirable. Unless otherwise specified, any hearing held would be nonadversary, with no formal pleadings and no adverse party. A rule issued after such hearing would not necessarily be based exclusively on the record of the hearing.

All final rules will be published in the *Federal Register*, unless, in accordance with section 552(a) of Title 5, United States Code, actual and timely notice has been given to all persons subject to it.

Since this amendment relates to Federal Highway Administration organization, procedures,

and practices, notice and public procedure hereon is not necessary and it may be made effective in less than thirty (30) days after publication in the *Federal Register*.

This amendment is made under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1407), and the delegation of authority of October 14, 1967 (32 F.R. 14277).

In consideration of the foregoing, Title 49[23] of the Code of Federal Regulations is amended by deleting Part 215 and adding the following new Part 353—"Rule-Making Procedures: Motor Vehicle Safety Standards" effective November 17, 1967.

Issued in Washington, D.C., on November 9, 1967.

Lowell K. Bridwell,
Federal Highway Administrator

SUBPART A—GENERAL

Sec.

- 353.1** Applicability.
- 353.3** Definitions.
- 353.5** Regulatory dockets.
- 353.7** Records.

SUBPART B—PROCEDURES FOR ADOPTION OF RULES UNDER SECTIONS 103 AND 109 OF THE ACT

- 353.11** General.
- 353.13** Initiation of rule making.
- 353.15** Contents of notices of proposed rule making.
- 353.17** Participation of interested persons.
- 353.19** Petitions for extension of time to comment.
- 353.21** Contents of written comments.
- 353.23** Consideration of comments received.

Effective: November 17, 1967

- 353.25 Additional rule-making proceedings.
 - 353.27 Hearings.
 - 353.29 Adoption of final rules.
 - 353.31 Petitions for rule making.
 - 353.33 Processing of petitions.
 - 353.35 Petitions for reconsideration.
 - 353.37 Proceedings on petitions for reconsideration.
-

AUTHORITY: The provisions of this Part 353 issued under secs. 103 and 119, 80 Stat. 728; 15 U.S.C. 1407; Delegation of Authority of Oct. 14, 1967 (32 F.R. 14277).

32 F.R. 15818
November 17, 1967

PREAMBLE TO PART 553—RULEMAKING PROCEDURES: MOTOR VEHICLE SAFETY STANDARDS

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**32 F.R. 15818
November 17, 1967**

PREAMBLE TO AMENDMENT TO PART 553—RULEMAKING PROCEDURES: MOTOR VEHICLE SAFETY STANDARDS

Effect of Petition for Reconsideration

Sections 553.35 and 553.37 of Title 49, Code of Federal Regulations, provide procedural rules for submission of, and action upon, petitions for reconsideration of rules issued under the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.). The purpose of this notice is to establish a new section in Part 553, to make clear the National Highway Safety Bureau's interpretation of the effect of the filing of a petition for reconsideration upon the running of the 60-day period for judicial review of orders issued under the Act (15 U.S.C. 1394).

The Bureau's position is that the 60-day period for judicial review is stayed by a timely petition for reconsideration of an order, and that the review period does not expire until 60 days after the Director's disposition of the petition by notice in the *Federal Register*. A party adversely affected by the order may, however, seek judicial review before the petition is disposed of.

The staying of the expiration of the review period while action is being taken on petitions for reconsideration is manifestly in the interest both of affected parties and orderly administration by the Bureau. Original orders are often amended on reconsideration. If the expiration of the judicial review period is not stayed, affected parties will be forced to file their appeal in court within 30 days after filing a petition for reconsideration, regarding an issue that may subsequently be mooted by Bureau action on the petition. There would be corresponding pressure on the Bureau to take hasty action on the petition. It appears that the intent of the statute would be best carried out by allowing an appeal

at any time between the original Bureau order and 60 days after final action on petitions.

The language of the statute can support this interpretation. The key language is that a person may seek judicial review "at any time prior to the 60th day after such order is issued" (15 U.S.C. 1394(a)(1)). Where a rule is promulgated, and then action is taken on a petition for reconsideration, actually both actions can reasonably be viewed as the issuance of an order. A party may accordingly wait until the last "order" in the rulemaking process to prepare his court action, with 60 days to do so. Alternatively, he may appeal immediately after the rule is first issued, as, for example, where the effective date is soon enough that he considers it important to obtain an immediate resolution of the issues.

In light of the foregoing, Part 553, Rulemaking Procedures: Motor Vehicle Safety Standards, of Title 49, Code of Federal Regulations is amended by adding a new § 553.39, Effect of petition for reconsideration on time for seeking judicial review, to read as set forth below. Since this rule is interpretative in nature, notice and public procedure thereon are unnecessary, and it is effective upon publication in the *Federal Register*.

Issued on December 17, 1970.

Douglas W. Toms,
Director.

December 19, 1970
35 F.R. 19268

PREAMBLE TO AMENDMENT TO PART 553—RULEMAKING PROCEDURES: MOTOR VEHICLE SAFETY STANDARDS

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December 19, 1970
35 F.R. 19268

PREAMBLE TO AMENDMENT TO PART 553—RULEMAKING PROCEDURES: MOTOR VEHICLE SAFETY STANDARDS

Petitions for Extension of Time to Comment

Section 553.19, rulemaking procedures, in Chapter 5 of Title 49, Code of Federal Regulations, currently requires that a petition for extension of time to comment on a rulemaking notice be received not later than 3 days before the expiration of the comment period specified in the notice. The 3-day requirement has proven unsatisfactory in situations where the petition is received close to the deadline, and the agency determines that it should be denied. The 3-day period does not allow sufficient time for the agency to process the petition, notify the petitioner of its determination, and leave time in the comment period for the petitioner to submit comments.

To remedy this problem, § 553.19 is hereby amended to require that petitions for extensions of time be submitted not later than 10 days be-

fore the expiration of the comment period. This will provide time for agency action within the comment period, and for petitioners whose petitions are denied to submit comments, if they wish, before the comment period expires.

Since this amendment concerns agency procedure, notice and public procedure thereon are unnecessary, and it is effective upon publication in the *Federal Register* (2-5-71), with respect to all rulemaking notices issued subsequent to its publication.

Issued on February 2, 1971.

Douglas W. Toms,
Acting Administrator.

36 F.R. 2511
February 5, 1971

**PREAMBLE TO AMENDMENT TO PART 553—RULEMAKING PROCEDURES: MOTOR
VEHICLE SAFETY STANDARDS**

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36 F.R. 2511
February 5, 1971

**PREAMBLE TO AMENDMENT TO PART 553—RULEMAKING PROCEDURES:
MOTOR VEHICLE SAFETY STANDARDS**

Statement of Policy: Action on Petitions for Reconsideration

The Center for Auto Safety has submitted a petition for rulemaking requesting that the NHTSA amend 49 CFR Part 553, Rulemaking Procedures, to provide that NHTSA must respond to petitions for reconsideration within 60 days of the date the rule in question is published in the *Federal Register*. The Center cited the interval of 5 months and 19 days that elapsed before issuance of the recent action on petitions concerning Standard No. 208, Occupant Crash Protection, as an illustration of the need for such a rule.

The NHTSA does not agree that the elapsed interval in that case, in view of the complexity of the issues raised and the hundreds of pages of highly technical material submitted in the petitions, was unjustified. This agency does, however, recognize that the period of reconsideration is one of considerable uncertainty to interested parties, since the rule in question has been issued, the effective date is approaching, and active preparation for compliance presumably is underway.

It has been determined, therefore, that a statement of policy on this subject will be appropriate, for the guidance of all parties concerned. A period of 90 days from issuance of the rule will be the normal period for action on reconsideration. This period will allow only 60 days for agency action, which is considered the shortest

practicable period for the necessary steps: detailed review of the petitions, gathering of supplementary information as necessary, making basic technical and policy decisions, drafting of the action document, and review by responsible officials. Where that period is found insufficient, a *Federal Register* notice will be issued stating the date by which action is expected to be completed.

Accordingly, an Appendix is hereby added to 49 CFR Part 553, ...

Effective date: March 1, 1972. This statement is issued in the interest of orderly administration and public information. It shall not affect the validity of any rules hereafter issued by the National Highway Traffic Safety Administration, or the legal rights, duties, or liabilities of any persons pursuant to those rules.

This notice is issued under the authority of section 119 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1407, and the delegation of authority at 49 CFR 1.51.

Issued on February 14, 1972.

Douglas W. Toms
Administrator

**37 F.R. 3632
February 18, 1972**

**PREAMBLE TO AMENDMENT TO PART 553—RULEMAKING PROCEDURES:
MOTOR VEHICLE SAFETY STANDARDS**

Statement of Policy: Action on Petitions for Reconsideration

The Center for Auto Safety has submitted a petition for rulemaking requesting that the NHTSA amend 49 CFR Part 553, Rulemaking Procedures, to provide that NHTSA must respond to petitions for reconsideration within 60 days of the date the rule in question is published in the *Federal Register*. The Center cited the interval of 5 months and 19 days that elapsed before issuance of the recent action on petitions concerning Standard No. 208, Occupant Crash Protection, as an illustration of the need for such a rule.

The NHTSA does not agree that the elapsed interval in that case, in view of the complexity of the issues raised and the hundreds of pages of highly technical material submitted in the petitions, was unjustified. This agency does, however, recognize that the period of reconsideration is one of considerable uncertainty to interested parties, since the rule in question has been issued, the effective date is approaching, and active preparation for compliance presumably is underway.

It has been determined, therefore, that a statement of policy on this subject will be appropriate, for the guidance of all parties concerned. A period of 90 days from issuance of the rule will be the normal period for action on reconsideration. This period will allow only 60 days for agency action, which is considered the shortest

practicable period for the necessary steps: detailed review of the petitions, gathering of supplementary information as necessary, making basic technical and policy decisions, drafting of the action document, and review by responsible officials. Where that period is found insufficient, a *Federal Register* notice will be issued stating the date by which action is expected to be completed.

Accordingly, an Appendix is hereby added to 49 CFR Part 553, ...

Effective date: March 1, 1972. This statement is issued in the interest of orderly administration and public information. It shall not affect the validity of any rules hereafter issued by the National Highway Traffic Safety Administration, or the legal rights, duties, or liabilities of any persons pursuant to those rules.

This notice is issued under the authority of section 119 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1407, and the delegation of authority at 49 CFR 1.51.

Issued on February 14, 1972.

Douglas W. Toms
Administrator

**37 F.R. 3632
February 18, 1972**

PREAMBLE TO AMENDMENT TO PART 553—RULEMAKING PROCEDURES

Sections 553.31 and 553.35 of Title 49, Code of Federal Regulations, currently specify that petitions for rulemaking and for reconsideration of rules should be addressed to the Docket Room of the National Highway Traffic Safety Administration. To conform to internal NHTSA correspondence procedures, §§ 553.31 and 553.35 are hereby amended by changing the submission address to the general mailing address specified in § 551.33. For public information, the same address is added to § 553.19, *Petitions for extension of time to comment*.

The requirement of § 553.31(b)(1) that petitions for rulemaking be submitted in duplicate is unnecessary and inconsistent with agency policy with respect to other submissions, and is being deleted. As in the case of other petitions

and comments, it is requested but not required that 10 copies be submitted.

Accordingly, amendments are made to 49 CFR Part 553, *Rulemaking Procedures: Motor Vehicle Safety Standards*. . . .

Since this amendment concerns internal agency procedure, it is found that notice and public procedure thereon are unnecessary.

Effective date: May 23, 1973.

(Sec. 119, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1407; delegation of authority at 49 CFR 1.51)

Issued on April 13, 1973.

James E. Wilson
Acting Administrator
38 F.R. 9824
April 20, 1973.

PREAMBLE TO AMENDMENT TO PART 553—RULEMAKING PROCEDURES

Sections 553.31 and 553.35 of Title 49, Code of Federal Regulations, currently specify that petitions for rulemaking and for reconsideration of rules should be addressed to the Docket Room of the National Highway Traffic Safety Administration. To conform to internal NHTSA correspondence procedures, §§ 553.31 and 553.35 are hereby amended by changing the submission address to the general mailing address specified in § 551.33. For public information, the same address is added to § 553.19, *Petitions for extension of time to comment*.

The requirement of § 553.31(b)(1) that petitions for rulemaking be submitted in duplicate is unnecessary and inconsistent with agency policy with respect to other submissions, and is being deleted. As in the case of other petitions

and comments, it is requested but not required that 10 copies be submitted.

Accordingly, amendments are made to 49 CFR Part 553, *Rulemaking Procedures: Motor Vehicle Safety Standards*. . . .

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Issued on April 13, 1973.

James E. Wilson
Acting Administrator
38 F.R. 9824
April 20, 1973.

PREAMBLE TO AMENDMENT TO PART 553—RULEMAKING PROCEDURES

Parts 501, 551, and 553 of Title 49, Code of Federal Regulations, currently detail the delegated powers, general procedures, and rulemaking procedures utilized by the National Highway Traffic Safety Administration (NHTSA) to implement the National Traffic and Motor Vehicle Safety Act of 1966, Public Law 89-563. The Motor Vehicle Information and Cost Savings Act, Public Law 92-513, vests additional authority in the NHTSA. This amendment extends the applicability of Parts 501, 551, and 553 to the Cost Savings Act to establish uniform rulemaking procedures for both Acts.

Accordingly, amendments are made to 49 CFR, Part 501, "Organization and delegation of powers and duties", Part 551, "Procedural rules", and Part 553, "Rulemaking procedures: motor vehicle safety standards". . . .

Since this amendment relates to NHTSA organization, procedures, and practices, it is

found that notice and public procedure thereon are unnecessary.

Effective date: July 27, 1973. Because this notice is only an extension of existing procedures to new areas of jurisdiction, it is found that an immediate effective date is in the public interest.

(Secs. 9, Pub. L. 89-670, 80 Stat. 944, 49 U.S.C. 1657; 103, 119, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1407; 102, 105, 201, 205, 302, and 408, Pub. L. 92-513, 86 Stat. 947, 15 U.S.C. 1912, 1915, 1941, 1945, 1962, and 1988; delegation of authority at 38 FR 12147).

Issued on July 23, 1973.

James E. Wilson
Associate Administrator
Traffic Safety Programs

38 F.R. 20086
July 27, 1973

PREAMBLE TO AMENDMENT TO PART 553—RULEMAKING PROCEDURES

Parts 501, 551, and 553 of Title 49, Code of Federal Regulations, currently detail the delegated powers, general procedures, and rulemaking procedures utilized by the National Highway Traffic Safety Administration (NHTSA) to implement the National Traffic and Motor Vehicle Safety Act of 1966, Public Law 89-563. The Motor Vehicle Information and Cost Savings Act, Public Law 92-513, vests additional authority in the NHTSA. This amendment extends the applicability of Parts 501, 551, and 553 to the Cost Savings Act to establish uniform rulemaking procedures for both Acts.

Accordingly, amendments are made to 49 CFR, Part 501, "Organization and delegation of powers and duties", Part 551, "Procedural rules", and Part 553, "Rulemaking procedures: motor vehicle safety standards". . . .

Since this amendment relates to NHTSA organization, procedures, and practices, it is

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Issued on July 23, 1973.

James E. Wilson
Associate Administrator
Traffic Safety Programs

38 F.R. 20086
July 27, 1973

PREAMBLE TO AMENDMENT TO PART 553—RULEMAKING PROCEDURES

The purpose of this notice is to change the time specified, as an agency policy, for the NHTSA to act on petitions for reconsideration to 90 days from the closing date for the petitions.

On February 18, 1972, the NHTSA published a notice (37 FR 3632) adding an appendix to 49 CFR Part 553 that established an agency policy of responding to petitions for reconsideration within 90 days from publication of the final rule. The policy was instituted in order to remove some uncertainty as to the time when the agency would act on petitions following the issuance of a rule.

Since a period of 30 days from the issuance of a rule is allowed for the submission of petitions for reconsideration, the present policy allows only 60 days for the NHTSA to analyze the petitions and decide on, draft and have reviewed the appropriate response. It has become apparent that 60 days are not adequate time to complete this process. In conformance with the NHTSA's aim to specify a normal period for action on petitions for reconsideration, the period is being extended to 90 days from the closing date for petitions.

It has been determined that this is necessary to afford sufficient time for consideration of the petitions and the issuance of a response to the issues they raise.

As provided in the February 18, 1972 notice (37 FR 3632), where this period is found insufficient, a Federal Register notice will be issued stating the date by which action is expected to be completed.

Accordingly, the appendix to 49 CFR Part 553 is revised:

Effective date: April 25, 1974.

(Sec. 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1407) ; delegation of authority at 49 CFR 1.51)

Issued on April 22, 1974.

James B. Gregory
Administrator

39 F.R. 14593
April 25, 1974



PREAMBLE TO AMENDMENT TO PART 553—RULEMAKING PROCEDURES

The purpose of this notice is to change the time specified, as an agency policy, for the NHTSA to act on petitions for reconsideration to 90 days from the closing date for the petitions.

On February 18, 1972, the NHTSA published a notice (37 FR 3632) adding an appendix to 49 CFR Part 553 that established an agency policy of responding to petitions for reconsideration within 90 days from publication of the final rule. The policy was instituted in order to remove some uncertainty as to the time when the agency would act on petitions following the issuance of a rule.

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It has been determined that this is necessary to afford sufficient time for consideration of the petitions and the issuance of a response to the issues they raise.

As provided in the February 18, 1972 notice (37 FR 3632), where this period is found insufficient, a Federal Register notice will be issued stating the date by which action is expected to be completed.

Accordingly, the appendix to 49 CFR Part 553 is revised:

Effective date: April 25, 1974.

(Sec. 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1407); delegation of authority at 49 CFR 1.51)

Issued on April 22, 1974.

James B. Gregory
Administrator

39 F.R. 14593
April 25, 1974

PREAMBLE TO AMENDMENT TO PART 553—RULEMAKING PROCEDURES

(Docket No. 75-17; Notice 2)

This notice amends title 49, Code of Federal Regulations, Part 553, *Rulemaking Procedures*, by deleting those sections of the part which set out procedures by which interested persons may petition the NHTSA to undertake rulemaking. These procedures have been incorporated in a new Part 552, *Petitions for Rulemaking, Defect, and Noncompliance Orders*, of Title 49, Code of Federal Regulations, published today in a separate notice.

The amendments provide that the National Highway Traffic Safety Administrator may initiate rulemaking on his own motion, on the recommendation of other agencies of the Federal Government, or on petition by any interested person after a determination in accordance with Part 552 that grant of the petition is advisable (§ 553.11).

The amendment also reverses the order of sections dealing with initiation of rulemaking and notice of proposed rulemaking, presently set out in sections 553.13 and 553.11, respectively, to more closely follow the chronology of the rulemaking process.

Only one comment, from American Motors Corporation, was received in response to the notice proposing these amendments (40 F.R. 25480, June 16, 1975). AMC asserted that the

language of the new section 553.11 could be misinterpreted to mean that recommendations from other Federal agencies would be treated as another form of petition for rulemaking, rather than as input to the Administrator in making a determination whether or not to commence rulemaking on his own motion. The NHTSA does not agree that the language of section 553.11 is subject to such an interpretation, as it neither expressly nor impliedly directs the Administrator to treat recommendations from other agencies as petitions. It merely continues the intent of the previous section 553.13 that the recommendations of other agencies may be considered by the Administrator in determining whether to initiate rulemaking proceedings in response to a petition from an interested party or on his own motion.

In light of the foregoing, 49 CFR Part 553, *Rulemaking Procedures*, is amended as follows:

Effective date: October 13, 1975.

(Sec. 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1407); delegation of authority at 49 CFR 1.51.)

Issued on September 4, 1975.

James B. Gregory
Administrator

40 F.R. 42015
September 10, 1975

PREAMBLE TO AMENDMENT TO PART 553—RULEMAKING PROCEDURES

(Docket No. 75-17; Notice 2)

This notice amends title 49, Code of Federal Regulations, Part 553, *Rulemaking Procedures*, by deleting those sections of the part which set out procedures by which interested persons may petition the NHTSA to undertake rulemaking. These procedures have been incorporated in a new Part 552, *Petitions for Rulemaking, Defect, and Noncompliance Orders*, of Title 49, Code of Federal Regulations, published today in a separate notice.

The amendments provide that the National Highway Traffic Safety Administrator may initiate rulemaking on his own motion, on the recommendation of other agencies of the Federal Government, or on petition by any interested person after a determination in accordance with Part 552 that grant of the petition is advisable (§ 553.11).

The amendment also reverses the order of sections dealing with initiation of rulemaking and notice of proposed rulemaking, presently set out in sections 553.13 and 553.11, respectively, to more closely follow the chronology of the rulemaking process.

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language of the new section 553.11 could be misinterpreted to mean that recommendations from other Federal agencies would be treated as another form of petition for rulemaking, rather than as input to the Administrator in making a determination whether or not to commence rulemaking on his own motion. The NHTSA does not agree that the language of section 553.11 is subject to such an interpretation, as it neither expressly nor impliedly directs the Administrator to treat recommendations from other agencies as petitions. It merely continues the intent of the previous section 533.13 that the recommendations of other agencies may be considered by the Administrator in determining whether to initiate rulemaking proceedings in response to a petition from an interested party or on his own motion.

In light of the foregoing, 49 CFR Part 553, *Rulemaking Procedures*, is amended as follows:

Effective date: October 13, 1975.

(Sec. 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1407); delegation of authority at 49 CFR 1.51.)

Issued on September 4, 1975.

James B. Gregory
Administrator

40 F.R. 42015
September 10, 1975

PREAMBLE TO AMENDMENT TO PART 553—RULEMAKING PROCEDURES

(Docket No. 75-17; Notice 1)

On September 10, 1975, a notice was published amending 49 CFR Part 553, *Rulemaking Procedures*, to delete certain provisions of the regulation incorporated in a new Part 552, *Petitions for Rulemaking, Defect, and Noncompliance Orders*, published the same day (40 F.R. 42015). Section 553.35(a) refers to "petitions filed under § 553.31." However, the provisions of § 553.31 are now incorporated in 49 CFR Part 552. As a result, the notice amending Part 553 should have included an amendment to § 553.35(a) reflecting this change.

Accordingly, the phrase "petitions filed under § 553.31" in paragraph (a) of section 553.35 is changed to read "petitions filed under Part 552 of this chapter."

Effective date: November 14, 1975. Because this amendment clarifies a previous notice and imposes no additional burden on any person, it is found for good cause shown that an immediate effective date is in the public interest.

(Sec. 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1407); delegation of authority at 49 CFR 1.51.)

Issued on November 10, 1975.

James B. Gregory
Administrator

40 F.R. 53032
November 14, 1975

PREAMBLE TO AMENDMENT TO PART 553—RULEMAKING PROCEDURES

(Docket No. 75-17; Notice 1)

On September 10, 1975, a notice was published amending 49 CFR Part 553, *Rulemaking Procedures*, to delete certain provisions of the regulation incorporated in a new Part 552, *Petitions for Rulemaking, Defect, and Noncompliance Orders*, published the same day (40 F.R. 42015). Section 553.35(a) refers to "petitions filed under § 553.31." However, the provisions of § 553.31 are now incorporated in 49 CFR Part 552. As a result, the notice amending Part 553 should have included an amendment to § 553.35(a) reflecting this change.

Accordingly, the phrase "petitions filed under § 553.31" in paragraph (a) of section 553.35 is changed to read "petitions filed under Part 552 of this chapter."

Effective date: November 14, 1975. Because this amendment clarifies a previous notice and imposes no additional burden on any person, it is found for good cause shown that an immediate effective date is in the public interest.

(Sec. 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1407) ; delegation of authority at 49 CFR 1.51.)

Issued on November 10, 1975.

James B. Gregory
Administrator

40 F.R. 53032
November 14, 1975

PREAMBLE TO AMENDMENT TO PART 553—RULEMAKING PROCEDURES**(Docket No. 77-07; Notice 1)**

This notice requires persons who comment on Advance Notices of Proposed Rulemaking or Notices of Proposed Rulemaking and persons who submit Petitions for Reconsideration to limit the length of their written submissions to 15 pages. The 15-page limit will facilitate evaluation of submissions and encourage persons making submissions to detail their primary arguments in a succinct and concise manner.

Effective Date: November 14, 1977.

For Further Information Contact:

Bernard P. Klein
Office of Chief Counsel
National Highway Safety Administration
400 Seventh Street, S.W.
Washington, D.C. 20590
(202-426-1840)

Supplementary Information: 49 CFR 553.21 sets forth the requirements for the contents of written comments which are submitted in response to Advance Notices of Proposed Rulemaking (ANPRM) and Notices of Proposed Rulemaking (NPRM). 49 CFR 553.35 sets forth the requirements for the contents of written statements accompanying Petitions for Reconsideration. The National Highway Traffic Safety Administration (NHTSA) hereby adopts a procedure, effective immediately, requiring the above submissions to be limited to 15 pages in length. Necessary attachments to the submissions may be appended without regard to the 15-page limit.

It has been the experience of NHTSA that submissions significantly longer than 15 pages generally contain repetitious and even extraneous sections, as well as sections more appropriately drafted in an appendix than in the body of the argument. Such drafting detracts from the logic and clarity of a submission, with the result that NHTSA has encountered difficulties in ascer-

taining the precise import of a comment or statement as well as difficulties in separating arguments from alleged facts. Administrative time is lost and the risk is created that valuable insight which could be provided by a submission escapes notice. It is expected that a clearer statement of the primary argument will aid the public in reviewing the docket. Additionally, it is reasonable to assume that the 15-page limit, by encouraging commenters and petitioners to detail their primary arguments in a succinct and concise fashion, will aid persons making submissions to NHTSA in identifying and expressing the more significant aspects of their communications.

It should be noted that this amendment does not limit the relevant data or supporting arguments that may be submitted by comment or petition for reconsideration, since necessary attachments may be appended to the submission without regard to the 15-page limit. Additionally, it is recognized that there may be instances where, because of the complexity of the subject matter, the 15-page limit would be an inappropriate restriction. The NHTSA may waive the 15-page limit or establish a different limit for a particular Federal Register notice. The waiver will be published in the notice to which it applies.

In consideration of the foregoing, 49 CFR 553 is amended to read as follows . . .

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1407; secs. 102, 201, 408, 501, Pub. L. 92-513, 86 Stat. 947, 15 U.S.C. 1912, 1941, 1988, 2001; delegation of authority at 49 CFR 1.50)

Issued on November 4, 1977.

Joan Claybrook
Administrator
42 F.R. 58949
November 14, 1977

PREAMBLE TO AMENDMENT TO PART 553—RULEMAKING PROCEDURES**(Docket No. 77-07; Notice 1)**

This notice requires persons who comment on Advance Notices of Proposed Rulemaking or Notices of Proposed Rulemaking and persons who submit Petitions for Reconsideration to limit the length of their written submissions to 15 pages. The 15-page limit will facilitate evaluation of submissions and encourage persons making submissions to detail their primary arguments in a succinct and concise manner.

Effective Date: November 14, 1977.

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taining the precise import of a comment or statement as well as difficulties in separating arguments from alleged facts. Administrative time is lost and the risk is created that valuable insight which could be provided by a submission escapes notice. It is expected that a clearer statement of the primary argument will aid the public in reviewing the docket. Additionally, it is reasonable to assume that the 15-page limit, by encouraging commenters and petitioners to detail their primary arguments in a succinct and concise fashion, will aid persons making submissions to NHTSA in identifying and expressing the more significant aspects of their communications.

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In consideration of the foregoing, 49 CFR 553 is amended to read as follows . . .

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1407; secs. 102, 201, 408, 501, Pub. L. 92-513, 86 Stat. 947, 15 U.S.C. 1912, 1941, 1988, 2001; delegation of authority at 49 CFR 1.50)

Issued on November 4, 1977.

Joan Claybrook
Administrator
42 F.R. 58949
November 14, 1977

PART 553—RULEMAKING PROCEDURES

SUBPART A—GENERAL

§ 553.1 Applicability.

This part prescribes rulemaking procedures that apply to the issuance, amendment, and revocation of rules pursuant to the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act.

§ 553.3 Definitions.

“Acts” means the National Traffic and Motor Vehicle Safety Act of 1966, Public Law 89-563, 15 U.S.C. 1391, et seq., and the Motor Vehicle Information and Cost Savings Act, Public Law 92-513, 15 U.S.C. 1901, et seq.

“Administrator” means the Administrator of the National Highway Traffic Safety Administration or a person to whom he has delegated final authority in the matter concerned.

“Rule” includes any order, regulation, or Federal motor vehicle safety standard issued under the Acts.

§ 553.5 Regulatory docket.

(a) Information and data deemed relevant by the Administrator relating to rulemaking actions, including notices of proposed rulemaking; comments received in response to notices; petitions for rulemaking and reconsideration; denials of petitions for rulemaking and reconsideration; records of additional rulemaking proceedings under § 553.25; and final rules are maintained in the Docket Room, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

(b) Any person may examine any docketed material at the Docket Room at any time during regular business hours after the docket is established,

except material ordered withheld from the public under applicable provisions of the Acts and section 552(b) of Title 5 of the United States Code, and may obtain a copy of it upon payment of a fee.

§ 553.7 Records.

Records of the National Highway Traffic Safety Administration relating to rulemaking proceedings are available for inspection as provided in section 552(b) of Title 5 of the United States Code and Part 7 of the Regulations of the Secretary of Transportation (49 CFR Part 7; 32 F.R. 9284 et seq.).

SUBPART B—PROCEDURES FOR ADOPTION OF RULES

§ 553.11 Initiation of rulemaking.

The Administrator may initiate rulemaking either on his own motion or on petition by any interested person after a determination in accordance with Part 552 of this title that grant of the petition is advisable. The Administrator may, in his discretion, also consider the recommendations of other agencies of the United States.

§ 553.13 Notice of proposed rulemaking.

Unless the Administrator, for good cause, finds that notice is impracticable, unnecessary, or contrary to the public interest, and incorporates that finding and a brief statement of the reasons for it in the rule, a notice of proposed rulemaking is issued and interested persons are invited to participate in the rulemaking proceedings under applicable provisions of the Acts.

§ 553.15 Contents of notices of proposed rulemaking.

(a) Each notice of proposed rulemaking is published in the *Federal Register*, unless all persons subject to it are named and are personally served with a copy of it.

(b) Each notice, whether published in the *Federal Register* or personally served, includes—

(1) A statement of the time, place, and nature of the proposed rulemaking proceedings;

(2) A reference to the authority under which it is issued;

(3) A description of the subjects and issues involved or the substance and terms of the proposed rule;

(4) A statement of the time within which written comments must be submitted; and

(5) A statement of how and to what extent interested persons may participate in the proceeding.

§ 553.17 Participation by interested persons.

(a) Any interested person may participate in rulemaking proceeding by submitting comments in writing containing information, views or arguments.

(b) In his discretion, the Administrator may invite any interested person to participate in the rulemaking procedures described in § 553.25.

§ 553.19 Petitions for extension of time to comment.

A petition for extension of the time to submit comments must be received not later than 10 days before expiration of the time stated in the notice. The petitions must be submitted to: Administrator, National Highway Traffic Safety Administration, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D. C. 20590. It is requested, but not required, that 10 copies be submitted. The filing of the petition does not automatically extend the time for petitioner's comments. Such a petition is granted only if the petitioner shows good cause for the extension, and if the extension is consistent with the public interest. If an extension is granted, it is granted to all persons, and it is published in the *Federal Register*.

§ 553.21 Contents of written comments.

[All written comments shall be in English. Unless otherwise specified in a notice requesting comments, comments may not exceed 15 pages in length, but necessary attachments may be appended to the submission without regard to the 15-page limit. Any interested person shall submit as a part of his written comments all material that he considers relevant to any statement of fact made by him. Incorporation by reference should be avoided. However, if incorporation by reference is necessary, the incorporated material shall be identified with respect to document and page. It is requested, but not required, that 10 copies of the comments and attachments, if any, be submitted. (42 F.R. 58949—November 14, 1977. Effective: 11/14/77)]

§ 553.23 Consideration of comments received.

All timely comments are considered before final action is taken on a rulemaking proposal. Late filed comments may be considered as far as practicable.

§ 553.25 Additional rulemaking proceedings.

The Administrator may initiate any further rulemaking proceedings that he finds necessary or desirable. For example, interested persons may be invited to make oral arguments, to participate in conferences between the Administrator or his representative and interested persons at which minutes of the conference are kept, to appear at informal hearings presided over by officials designated by the Administrator at which a transcript or minutes are kept, or participate in any other proceeding to assure informed administrative action and to protect the public interest.

§ 553.27 Hearings.

(a) Sections 556 and 557 of Title 5, United States Code, do not apply to hearings held under this part. Unless otherwise specified, hearings held under this part are informal, nonadversary, fact-finding proceedings, at which there are no formal pleadings or adverse parties. Any rule issued in a case in which an informal hearing is held is not necessarily based exclusively on the record of the hearing.

PART 553—RULEMAKING PROCEDURES

SUBPART A—GENERAL

§ 553.1 Applicability.

This part prescribes rulemaking procedures that apply to the issuance, amendment, and revocation of rules pursuant to the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act.

§ 553.3 Definitions.

"Acts" means the National Traffic and Motor Vehicle Safety Act of 1966, Public Law 89-563, 15 U.S.C. 1391, et seq., and the Motor Vehicle Information and Cost Savings Act, Public Law 92-513, 15 U.S.C. 1901, et seq.

"Administrator" means the Administrator of the National Highway Traffic Safety Administration or a person to whom he has delegated final authority in the matter concerned.

"Rule" includes any order, regulation, or Federal motor vehicle safety standard issued under the Acts.

§ 553.5 Regulatory docket.

(a) Information and data deemed relevant by the Administrator relating to rulemaking actions, including notices of proposed rulemaking; comments received in response to notices; petitions for rulemaking and reconsideration; denials of petitions for rulemaking and reconsideration; records of additional rulemaking proceedings under § 553.25; and final rules are maintained in the Docket Room, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

(b) Any person may examine any docketed material at the Docket Room at any time during regular business hours after the docket is established,

except material ordered withheld from the public under applicable provisions of the Acts and section 552(b) of Title 5 of the United States Code, and may obtain a copy of it upon payment of a fee.

§ 553.7 Records.

Records of the National Highway Traffic Safety Administration relating to rulemaking proceedings are available for inspection as provided in section 552(b) of Title 5 of the United States Code and Part 7 of the Regulations of the Secretary of Transportation (49 CFR Part 7; 32 F.R. 9284 et seq.).

SUBPART B—PROCEDURES FOR ADOPTION OF RULES

§ 553.11 Initiation of rulemaking.

The Administrator may initiate rulemaking either on his own motion or on petition by any interested person after a determination in accordance with Part 552 of this title that grant of the petition is advisable. The Administrator may, in his discretion, also consider the recommendations of other agencies of the United States.

§ 553.13 Notice of proposed rulemaking.

Unless the Administrator, for good cause, finds that notice is impracticable, unnecessary, or contrary to the public interest, and incorporates that finding and a brief statement of the reasons for it in the rule, a notice of proposed rulemaking is issued and interested persons are invited to participate in the rulemaking proceedings under applicable provisions of the Acts.

§ 553.15 Contents of notices of proposed rulemaking.

(a) Each notice of proposed rulemaking is published in the Federal Register, unless all persons subject to it are named and are personally served with a copy of it.

(b) Each notice, whether published in the *Federal Register* or personally served, includes—

(1) A statement of the time, place, and nature of the proposed rulemaking proceedings;

(2) A reference to the authority under which it is issued;

(3) A description of the subjects and issues involved or the substance and terms of the proposed rule;

(4) A statement of the time within which written comments must be submitted; and

(5) A statement of how and to what extent interested persons may participate in the proceeding.

§ 553.17 Participation by interested persons.

(a) Any interested person may participate in rulemaking proceeding by submitting comments in writing containing information, views or arguments.

(b) In his discretion, the Administrator may invite any interested person to participate in the rulemaking procedures described in § 553.25.

§ 553.19 Petitions for extension of time to comment.

A petition for extension of the time to submit comments must be received not later than 10 days before expiration of the time stated in the notice. The petitions must be submitted to: Administrator, National Highway Traffic Safety Administration, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D. C. 20590. It is requested, but not required, that 10 copies be submitted. The filing of the petition does not automatically extend the time for petitioner's comments. Such a petition is granted only if the petitioner shows good cause for the extension, and if the extension is consistent with the public interest. If an extension is granted, it is granted to all persons, and it is published in the *Federal Register*.

§ 553.21 Contents of written comments.

[All written comments shall be in English. Unless otherwise specified in a notice requesting comments, comments may not exceed 15 pages in length, but necessary attachments may be appended to the submission without regard to the 15-page limit. Any interested person shall submit as a part of his written comments all material that he considers relevant to any statement of fact made by him. Incorporation by reference should be avoided. However, if incorporation by reference is necessary, the incorporated material shall be identified with respect to document and page. It is requested, but not required, that 10 copies of the comments and attachments, if any, be submitted. (42 F.R. 58949—November 14, 1977. Effective: 11/14/77)]

§ 553.23 Consideration of comments received.

All timely comments are considered before final action is taken on a rulemaking proposal. Late filed comments may be considered as far as practicable.

§ 553.25 Additional rulemaking proceedings.

The Administrator may initiate any further rulemaking proceedings that he finds necessary or desirable. For example, interested persons may be invited to make oral arguments, to participate in conferences between the Administrator or his representative and interested persons at which minutes of the conference are kept, to appear at informal hearings presided over by officials designated by the Administrator at which a transcript or minutes are kept, or participate in any other proceeding to assure informed administrative action and to protect the public interest.

§ 553.27 Hearings.

(a) Sections 556 and 557 of Title 5, United States Code, do not apply to hearings held under this part. Unless otherwise specified, hearings held under this part are informal, nonadversary, fact-finding proceedings, at which there are no formal pleadings or adverse parties. Any rule issued in a case in which an informal hearing is held is not necessarily based exclusively on the record of the hearing.

(b) The Administrator designates a representative to conduct any hearing held under this part. The Chief Counsel designates a member of his staff to serve as legal officer at the hearing.

§ 553.29 Adoption of final rules.

Final rules are prepared by representatives of the office concerned and the Office of the Chief Counsel. The rule is then submitted to the Administrator for his consideration. If the Administrator adopts the rule, it is published in the Federal Register, unless all persons subject to it are named and are personally served with a copy of it.

§ 553.31 Reserved.

§ 553.33 Reserved.

§ 553.35 Petitions for reconsideration.

[(a) Any interested person may petition the Administrator for reconsideration of any rule issued under this part. The petition shall be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested, but not required, that 10 copies be submitted. The petition must be received not later than 30 days after publication of the rule in the Federal Register. Petitions filed after that time will be considered as petitions filed under Part 552 of this chapter. The petition must contain a brief statement of the complaint and an explanation as to why compliance with the rule is not practicable, is unreasonable, or is not in the public interest. Unless otherwise specified in the final rule, the statement and explanation together may not exceed 15 pages in length, but necessary attachments may be appended to the submission without regard to the 15-page limit.

(b) If the petitioner requests the consideration of additional facts, he must state the reason they were not presented to the Administrator within the prescribed time.

(c) The Administrator does not consider repetitious petitions.

(d) Unless the Administrator otherwise provides, the filing of a petition under this section does not stay the effectiveness of the rule. (42 F.R. 58949—November 14, 1977. Effective: 11/14/77)]

§ 553.37 Proceedings on petitions for reconsideration.

The Administrator may grant or deny, in whole or in part, any petition for reconsideration without further proceedings. In the event he determines to reconsider any rule, he may issue a final decision on reconsideration without further proceedings, or he may provide such opportunity to submit comment or information and data as he deems appropriate. Whenever the Administrator determines that a petition should be granted or denied, he prepares a notice of the grant or denial of a petition for reconsideration, for issuance to the petitioner and issues it to the petitioner. The Administrator may consolidate petitions relating to the same rule.

§ 553.39 Effect of petition for reconsideration on time for seeking judicial review.

The filing of a timely petition for reconsideration of any rule issued under this part postpones the expiration of the 60-day period in which to seek judicial review of that rule, as to every person adversely affected by the rule. Such a person may file a petition for judicial review at any time from the issuance of the rule in question until 60 days after publication in the Federal Register of the Administrator's disposition of any timely petitions for reconsideration.

APPENDIX

Statement of Policy: Action on Petitions for Reconsideration

It is the policy of National Highway Traffic Safety Administration to issue notice of the action taken on a petition for reconsideration within 90 days after the closing date for receipt

of such petitions, unless it is found impracticable to take action within that time. In cases where it is so found and the delay beyond that period is expected to be substantial, notice of that fact, and

the date by which it is expected that action will be taken, will be published in the Federal Register.

32 F.R. 15818

November 17, 1967

(b) The Administrator designates a representative to conduct any hearing held under this part. The Chief Counsel designates a member of his staff to serve as legal officer at the hearing.

§ 553.29 Adoption of final rules.

Final rules are prepared by representatives of the office concerned and the Office of the Chief Counsel. The rule is then submitted to the Administrator for his consideration. If the Administrator adopts the rule, it is published in the Federal Register, unless all persons subject to it are named and are personally served with a copy of it.

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32 F.R. 15818

November 17, 1967

PREAMBLE TO PART 554—STANDARDS ENFORCEMENT AND DEFECTS INVESTIGATION

(Docket No. 75-26; Notice 2)

ACTION: Final Rule.

SUMMARY: This notice amends Title 49 of the Code of Federal Regulations by the addition of a new Part 554, "Standards Enforcement and Defects Investigation," to codify existing agency procedures with respect to noncompliance and defect investigations.

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT:

Roger Tilton, Office of Chief Counsel,
National Highway Traffic Safety Adminis-
tration, 400 Seventh Street, S.W.,
Washington, D.C. 20590 (202-426-2993)

SUPPLEMENTARY INFORMATION:

A notice of proposed rulemaking to establish Part 554 was published in the Federal Register on September 30, 1975, (40 FR 44842). Ten comments were received from vehicle manufacturers and consumer groups. The National Motor Vehicle Safety Advisory Council did not take a position on the proposal. The Vehicle Equipment Safety Commission did not submit comments.

The NHTSA is adding Part 554 to Title 49 to combine and condense previously published policy directives (39 FR 1373, January 8, 1974; 38 FR 31460, November 14, 1973) and to modify its procedures somewhat, as contemplated by the Motor Vehicle and Schoolbus Safety Amendments of 1974 (Pub. L. 93-492, 88 Stat. 1470). This codification is intended to better inform interested persons of the agency's procedures.

The comments submitted in response to the notice of proposed rulemaking were generally in favor of this codification. Most commenters suggested minor changes, and many of the changes have been incorporated into the wording of the final rule.

American Motors Corporation (AMC), Grove Manufacturing Company, and International Harvester (IH) recommended that the scope of the investigatory powers described in section 554.4 be limited to protect the privacy of manufacturers. Section 112 of the Act prescribes the extent of the agency's powers of investigation, and these powers are not expanded, and cannot be, by virtue of this regulation. The purpose of Part 554 is merely to make public the procedures that the agency has employed in the past as authorized by section 112. In view of this limited role, a recitation of limits found in the statute is unnecessary.

The Center for Auto Safety requested that the agency change section 554.4 to amplify the fact that the five investigatory techniques detailed in that section are not the exclusive means available to the agency for pursuing an investigation. The agency agrees with this suggested modification. The enumerated investigatory techniques are only the major methods employed by the agency to pursue investigations. The agency modifies the language of the section to indicate that other investigatory means will be used where necessary.

IH and Recreation Vehicle Industry Association (RVIA) suggested changes to section 554.6. IH recommended written notification of a compliance test failure to an "appropriate designated contact." RVIA requested notification of the commencement of defect investigations as well as compliance test failures.

The notification provided in paragraph (b) is made only upon the finding of a compliance test failure. The NHTSA agrees with RVIA that manufacturers should be notified at the beginning of a defect investigation as well. Additionally, the agency understands the need for timely notification of noncompliance investigations. It has been the policy of the NHTSA to issue written notifica-

tion of the commencement of both defect and non-compliance investigations. The NHTSA, therefore, amends paragraph (b) of section 554.6 to provide for timely written notification to the manufacturer of defect and noncompliance investigations.

The agency always attempts to notify an appropriate official within the company. To require notification of an "appropriate designated contact" as suggested by IH would mean that each manufacturer would be required to file with the NHTSA the name of an individual to whom notification could be sent. Additionally, the manufacturer would need to update this filing whenever necessary. The agency concludes that this would be unnecessarily burdensome and, therefore, reserves the right to contact any person with the apparent authority to receive this notification. There has been no indication that notices to date have gone astray.

The Center for Auto Safety argued that paragraph (b) of section 554.7 should provide more specific criteria for the opening of a formal defects investigation. The NHTSA deems it unnecessary to be more specific about the pertinent criteria that warrant the commencement of an investigation. The decision to proceed with a defects investigation is based upon a careful analysis of a variety of data. These data differ from case to case. Offices within the agency exercise their collective judgment as to the necessity for an investigation, given the particular facts of any case. For this reason, the NHTSA concludes that modification of paragraph (b) is unnecessary.

IH and Ford suggested that the agency define the term "exempt material" in section 554.9 to avoid confusion. Additionally, they both recommended that the NHTSA clarify the section to indicate that the disclosure of exempt communications as well as all other exempt material would be prohibited.

The NHTSA utilizes a two-step approach to the disclosure of confidential material pertaining to safety-related defects and noncompliances. The agency first determines whether the information qualifies for confidential treatment under any statutory authority. Second, the agency exercises its discretion under paragraph (e) of section 112 of the National Traffic and Motor Vehicle Safety Act (the Act) whereby the NHTSA may disclose confidential material if relevant to any proceeding

undertaken pursuant to the Act. After determining relevance, the agency, under the authority granted in section 158 (a)(2)(B) of the Act, releases confidential information pertaining to safety-related defects and noncompliances only when deemed necessary by the agency. The agency is amending section 554.9, therefore, to indicate that any communication or part of a file pertaining to a safety-related defect or noncompliance that is considered confidential will not be disclosed unless that disclosure is deemed necessary.

Many commenters suggested changes to section 554.10. Rohr Industries and AMC recommended that the phrase "preliminary determination" be changed to "initial determination" to make it consistent with Part 556. The NHTSA agrees with this suggestion and amends the language accordingly to reflect this change.

IH and General Motors Corporation (GM) suggested that the proposed 30-day time limit would be insufficient to prepare for the hearing that follows an initial determination. The language of this section indicates that any time period is only an approximation of the date upon which a hearing normally would be scheduled. The NHTSA has decided that 30 days allows sufficient time to prepare for the hearing, since manufacturers are forewarned of an investigation at its initiation and can, at that time, commence planning to dispute agency findings. The agency will, however, amend section 554.10 to show that hearings are normally scheduled within 30 days of the initial determination but that the 30-day requirement can be extended by the Administrator for good cause shown.

Most commenters argued that section 554.10 should allow for cross-examination at the hearings as well as other more formal procedures. The NHTSA has carefully considered these and similar comments for this part and in other contexts in our regulations and concludes that the informal procedures, as authorized by Congress, do provide adequate opportunity for comment and presentation of facts.

AMC suggested that paragraph (e) of section 554.10 be deleted. They believe that the file should be closed once the Administrator finds that there is no noncompliance or safety-related defect. The Center for Auto Safety, on the other hand, requested that the agency amend paragraph (e) to allow any interested person to demand a public hearing once the Administrator has made his finding.

PREAMBLE TO PART 554—STANDARDS ENFORCEMENT AND DEFECTS INVESTIGATION

(Docket No. 75-26; Notice 2)

ACTION: Final Rule.

SUMMARY: This notice amends Title 49 of the Code of Federal Regulations by the addition of a new Part 554, "Standards Enforcement and Defects Investigation," to codify existing agency procedures with respect to noncompliance and defect investigations.

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Many commenters suggested changes to section 554.10. Rohr Industries and AMC recommended that the phrase "preliminary determination" be changed to "initial determination" to make it consistent with Part 556. The NHTSA agrees with this suggestion and amends the language accordingly to reflect this change.

IH and General Motors Corporation (GM) suggested that the proposed 30-day time limit would be insufficient to prepare for the hearing that follows an initial determination. The language of this section indicates that any time period is only an approximation of the date upon which a hearing normally would be scheduled. The NHTSA has decided that 30 days allows sufficient time to prepare for the hearing, since manufacturers are forewarned of an investigation at its initiation and can, at that time, commence planning to dispute agency findings. The agency will, however, amend section 554.10 to show that hearings are normally scheduled within 30 days of the initial determination but that the 30-day requirement can be extended by the Administrator for good cause shown.

Most commenters argued that section 554.10 should allow for cross-examination at the hearings as well as other more formal procedures. The NHTSA has carefully considered these and similar comments for this part and in other contexts in our regulations and concludes that the informal procedures, as authorized by Congress, do provide adequate opportunity for comment and presentation of facts.

AMC suggested that paragraph (e) of section 554.10 be deleted. They believe that the file should be closed once the Administrator finds that there is no noncompliance or safety-related defect. The Center for Auto Safety, on the other hand, requested that the agency amend paragraph (e) to allow any interested person to demand a public hearing once the Administrator has made his finding.

The purpose of paragraph (e) is to allow the Administrator to seek further public comments in those rare cases where further comment might add significant new data. Normally, the public meeting held prior to the determination will provide ample opportunity to comment. On those occasions when a public meeting is not held prior to a finding that a noncompliance or safety-related defect does not exist, the Administrator should be permitted, not required, to seek further information by way of a public meeting where, in his opinion, additional information would be useful. To preserve this discretion, the agency retains the paragraph as written and declines to adopt the suggested changes.

GM requested that section 554.11 be modified to state that a manufacturer can proceed to a district court to obtain a trial *de novo* of the Administrator's determination. Judicial review of agency decisions is granted by Congress. The National Traffic and Motor Vehicle Safety Act specifically enumerates the procedures available to manufacturers to review the agency's decisions. Regulations promulgated by the NHTSA can in no way expand or restrict the manufacturer's right to

seek judicial review. Since judicial review is a Constitutional guarantee with limited Congressional discretion to allocate it among the several courts, it would be inappropriate for the agency to proffer rules concerning this review.

Rohr Industries requested that the NHTSA change section 554.11 to require publication in the FEDERAL REGISTER of a finding that a defect or noncompliance does not exist. The agency agrees with Rohr's suggestion to publish the Administrator's finding and section 554.11 has been modified accordingly.

In consideration of the foregoing, Title 49, Code of Federal Regulations, is amended by the addition of a new Part 554 titled "Standards Enforcement and Defects Investigation," as set forth below.

Issued on February 11, 1980.

Joan Claybrook
Administrator

45 F.R. 10796
February 19, 1980

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February 19, 1980

PART 554—STANDARDS ENFORCEMENT AND DEFECTS INVESTIGATION

(Docket No. 75-26; Notice 2)

Sec.

- 554.1 Scope.
- 554.2 Purpose.
- 554.3 Application.
- 554.4 Office of vehicle safety compliance.
- 554.5 Office of defects investigation.
- 554.6 Opening an investigation.
- 554.7 Investigation priorities.
- 554.8 Monthly reports.
- 554.9 Availability of files.
- 554.10 Preliminary determinations and public meetings.
- 554.11 Final determinations.

§ 554.1 Scope.

This part establishes procedures for enforcing Federal motor vehicle safety standards, and associated regulations investigating possible safety-related defects, and making non-compliance and defect determinations.

§ 554.2 Purpose.

The purpose of this part is to inform interested persons of the procedures followed by the National Highway Traffic Safety Administration in order more fairly and effectively to implement National Traffic and Motor Vehicle Safety Act (the Act).

§ 554.3 Application.

This part applies to actions, investigations, and defect and non-compliance determinations of the National Highway Traffic Safety Administration under sections 109, 112, 124, 152, 156, 157, and 158 of the Act (15 U.S.C. 1398, 1401, 1411, 1412, 1416, 1417, 1418).

§ 554.4 Office of Vehicle Safety Compliance.

The Office of Vehicle Safety Compliance investigates compliance with Federal motor vehicle safety standards and associated regulations, and to this end may—

- (a) Verify that manufacturers certify compliance with all applicable safety standards;
- (b) Collect field reports from all sources;
- (c) Inspect manufacturers' certification test data and other supporting evidence, including dealer communications;
- (d) Inspect vehicles and equipment already in use or new vehicles and equipment at any stage of the manufacturing, distribution and sales chain;
- (e) Conduct selective compliance tests; and
- (f) Utilize other means necessary to conduct investigations.

§ 554.5 Office of Defects Investigation.

The Office of Defects Investigation conducts investigations to implement the provisions of the Act concerning the identification and correction of safety-related defects in motor vehicles and motor vehicle equipment. It elicits from every available source and evaluates on a continuing basis any information suggesting the existence of a safety-related defect.

§ 554.6 Opening an investigation.

- (a) A compliance or defect investigation is opened either on the motion of the Administrator or his delegate or on the granting of a petition of an interested party under Part 552 of this chapter.
- (b) A manufacturer is notified immediately by telephone of any compliance test failure in order to enable the manufacturer to begin his own investigation. Notification is sent by mail at the beginning of any defect or non-compliance investigation.

§ 554.7 Investigation priorities.

- (a) Compliance investigation priorities are reviewed annually and are set according to the following criteria:
 - (1) Prior compliance test data;

- (2) Accident data;
- (3) Engineering analysis of vehicle and equipment designs;
- (4) Consumer complaints; and
- (5) Market share.

(b) Defects inputs are reviewed periodically by an appropriate panel of engineers in consultation with the Office of Chief Counsel to determine whether a formal investigation should be opened by the Office of Defects Investigation.

§ 554.8 Monthly reports.

(a) *Compliance.* A monthly compliance report is issued which lists investigations opened, closed, and pending during that month, identifies compliance test reports accepted, and indicates how individual reports may be obtained.

(b) *Defects.* A monthly defects report is issued which lists investigations opened, closed, pending, and suspended during that month. An investigation may be designated "suspended" where the information available is insufficient to warrant further investigation. Suspended cases are automatically closed 60 days after appearing in a monthly report unless new information is received which justifies a different disposition.

§ 554.9 Availability of files.

All files of closed or suspended investigations are available for public inspection in the NHTSA Technical Reference Library. Communications between the agency and a manufacturer with respect to ongoing investigations are also available. Such files and communications may contain material which is considered confidential but has been determined to be necessary to the subject proceeding. Material which is considered confidential but has not been determined to be necessary to the subject proceeding will not be disclosed. Reproduction of entire public files or of individual documents can be arranged.

§ 554.10 Initial determinations and public meetings.

(a) An initial determination of failure to comply with safety standards or of a safety-related defect is made by the Administrator or his delegate based on the completed investigative file compiled by the appropriate office.

(b) The determination is communicated to the manufacturer in a letter which makes available all

information on which the decision is based. The letter advises the manufacturer of his right to present data, views and arguments to establish that there is no defect or failure to comply or that the alleged defect does not affect motor vehicle safety. The letter also specifies the time and place of a public meeting for the presentation of arguments or sets a date by which written comments must be submitted. Submission of all information, whether at a public hearing or in written form, is normally scheduled about 30 days after the initial determination. The deadline for submission of information can be extended by the Administrator for good cause shown.

(c) Public notice of an initial determination is made in a FEDERAL REGISTER notice that—

(1) Identifies the motor vehicle or item of equipment and its manufacturer;

(2) Summarizes the information upon which the determination is based;

(3) Gives the location of all information available for public examination; and

(4) States the time and place of a public meeting or the deadline for written submissions in which the manufacturer and interested persons may present data, views, and arguments respecting the determination.

(d) A transcript of the public meeting is kept and exhibits may be offered. There is no cross-examination of witnesses.

(e) If the Administrator makes a determination that a failure to comply or a safety-related defect does not exist he may, at his discretion in a particular case, within 60 days of the determination, invite interested persons to submit their views on the NHTSA investigation in a public meeting. Notice and procedures for such a meeting are as specified in paragraphs (c) and (d) of this section.

§ 554.11 Final determinations.

(a) The Administrator bases his final determination on the completed investigatory file and the data, views, and arguments submitted at the public meeting.

(b) If the Administrator determines that a failure to comply or a safety-related defect exists, he orders the manufacturer to furnish the notification specified in the Act and to remedy the defect or failure to comply.

PART 554—STANDARDS ENFORCEMENT AND DEFECTS INVESTIGATION

(Docket No. 75-26; Notice 2)

Sec.

- 554.1 Scope.
- 554.2 Purpose.
- 554.3 Application.
- 554.4 Office of vehicle safety compliance.
- 554.5 Office of defects investigation.
- 554.6 Opening an investigation.
- 554.7 Investigation priorities.
- 554.8 Monthly reports.
- 554.9 Availability of files.
- 554.10 Preliminary determinations and public meetings.
- 554.11 Final determinations.

§ 554.1 Scope.

This part establishes procedures for enforcing Federal motor vehicle safety standards, and associated regulations investigating possible safety-related defects, and making non-compliance and defect determinations.

§ 554.2 Purpose.

The purpose of this part is to inform interested persons of the procedures followed by the National Highway Traffic Safety Administration in order more fairly and effectively to implement National Traffic and Motor Vehicle Safety Act (the Act).

§ 554.3 Application.

This part applies to actions, investigations, and defect and non-compliance determinations of the National Highway Traffic Safety Administration under sections 109, 112, 124, 152, 156, 157, and 158 of the Act (15 U.S.C. 1398, 1401, 1411, 1412, 1416, 1417, 1418).

§ 554.4 Office of Vehicle Safety Compliance.

The Office of Vehicle Safety Compliance investigates compliance with Federal motor vehicle safety standards and associated regulations, and to this end may—

- (a) Verify that manufacturers certify compliance with all applicable safety standards;
- (b) Collect field reports from all sources;
- (c) Inspect manufacturers' certification test data and other supporting evidence, including dealer communications;
- (d) Inspect vehicles and equipment already in use or new vehicles and equipment at any stage of the manufacturing, distribution and sales chain;
- (e) Conduct selective compliance tests; and
- (f) Utilize other means necessary to conduct investigations.

§ 554.5 Office of Defects Investigation.

The Office of Defects Investigation conducts investigations to implement the provisions of the Act concerning the identification and correction of safety-related defects in motor vehicles and motor vehicle equipment. It elicits from every available source and evaluates on a continuing basis any information suggesting the existence of a safety-related defect.

§ 554.6 Opening an Investigation.

(a) A compliance or defect investigation is opened either on the motion of the Administrator or his delegate or on the granting of a petition of an interested party under Part 552 of this chapter.

(b) A manufacturer is notified immediately by telephone of any compliance test failure in order to enable the manufacturer to begin his own investigation. Notification is sent by mail at the beginning of any defect or non-compliance investigation.

§ 554.7 Investigation priorities.

(a) Compliance investigation priorities are reviewed annually and are set according to the following criteria:

- (1) Prior compliance test data;

- (2) Accident data;
- (3) Engineering analysis of vehicle and equipment designs;
- (4) Consumer complaints; and
- (5) Market share.

(b) Defects inputs are reviewed periodically by an appropriate panel of engineers in consultation with the Office of Chief Counsel to determine whether a formal investigation should be opened by the Office of Defects Investigation.

§ 554.8 Monthly reports.

(a) *Compliance.* A monthly compliance report is issued which lists investigations opened, closed, and pending during that month, identifies compliance test reports accepted, and indicates how individual reports may be obtained.

(b) *Defects.* A monthly defects report is issued which lists investigations opened, closed, pending, and suspended during that month. An investigation may be designated “suspended” where the information available is insufficient to warrant further investigation. Suspended cases are automatically closed 60 days after appearing in a monthly report unless new information is received which justifies a different disposition.

§ 554.9 Availability of files.

All files of closed or suspended investigations are available for public inspection in the NHTSA Technical Reference Library. Communications between the agency and a manufacturer with respect to ongoing investigations are also available. Such files and communications may contain material which is considered confidential but has been determined to be necessary to the subject proceeding. Material which is considered confidential but has not been determined to be necessary to the subject proceeding will not be disclosed. Reproduction of entire public files or of individual documents can be arranged.

§ 554.10 Initial determinations and public meetings.

(a) An initial determination of failure to comply with safety standards or of a safety-related defect is made by the Administrator or his delegate based on the completed investigative file compiled by the appropriate office.

(b) The determination is communicated to the manufacturer in a letter which makes available all

information on which the decision is based. The letter advises the manufacturer of his right to present data, views and arguments to establish that there is no defect or failure to comply or that the alleged defect does not affect motor vehicle safety. The letter also specifies the time and place of a public meeting for the presentation of arguments or sets a date by which written comments must be submitted. Submission of all information, whether at a public hearing or in written form, is normally scheduled about 30 days after the initial determination. The deadline for submission of information can be extended by the Administrator for good cause shown.

(c) Public notice of an initial determination is made in a FEDERAL REGISTER notice that—

- (1) Identifies the motor vehicle or item of equipment and its manufacturer;
- (2) Summarizes the information upon which the determination is based;
- (3) Gives the location of all information available for public examination; and
- (4) States the time and place of a public meeting or the deadline for written submissions in which the manufacturer and interested persons may present data, views, and arguments respecting the determination.

(d) A transcript of the public meeting is kept and exhibits may be offered. There is no cross-examination of witnesses.

(e) If the Administrator makes a determination that a failure to comply or a safety-related defect does not exist he may, at his discretion in a particular case, within 60 days of the determination, invite interested persons to submit their views on the NHTSA investigation in a public meeting. Notice and procedures for such a meeting are as specified in paragraphs (c) and (d) of this section.

§ 554.11 Final determinations.

(a) The Administrator bases his final determination on the completed investigatory file and the data, views, and arguments submitted at the public meeting.

(b) If the Administrator determines that a failure to comply or a safety-related defect exists, he orders the manufacturer to furnish the notification specified in the Act and to remedy the defect or failure to comply.

(c) If the Administrator determines that a failure to comply or a safety-related defect does not exist, he so notifies the manufacturer and publishes this finding in the *Federal Register*.

(d) A statement of the Administrator's final

determination and the reasons for it appears in each completed public file.

45 F.R. 10796

February 19, 1980

(c) If the Administrator determines that a failure to comply or a safety-related defect does not exist, he so notifies the manufacturer and publishes this finding in the *Federal Register*.

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February 19, 1980

PREAMBLE TO PART 555—TEMPORARY EXEMPTION FROM MOTOR VEHICLE SAFETY STANDARDS

(Docket No. 72-30; Notice 2)

This notice amends Title 49 of the Code of Federal Regulations by adding a new Part 555, "Temporary Exemption from Motor Vehicle Safety Standards," effective January 29, 1973. A notice of proposed rulemaking on this subject was published December 1, 1972 (37 F.R. 25533), and opportunity afforded for comment.

On October 25, 1972 P.L. 92-548 was enacted, amending section 123 of the National Traffic and Motor Vehicle Safety Act of 1966 to provide four bases upon which a manufacturer of motor vehicles might apply for a temporary exemption from one or more Federal motor vehicle safety standards. The legislative intent is clearly expressed as to the information required to substantiate an application on each basis. A discussion follows of each basis, the required information and the principal issues raised in response to the proposal.

1. *Substantial Economic Hardship.* A manufacturer whose total motor vehicle production in his most recent year of manufacture did not exceed 10,000 may petition for relief on grounds that compliance would cause him substantial economic hardship and that he has, in good faith, attempted to comply with the standards. Hardship exemptions are granted for periods not to exceed three years. Section 123 of the Act and the proposed regulations require an applicant to include in his petition a complete financial statement showing the basis of the economic hardship and a complete description of his good faith effort to comply with the standards. Although it was not required by the Act, the NHTSA also proposed to require a description of the steps a manufacturer proposes to take during the exemption period to achieve full compliance and the estimated date by which full compliance is to be achieved.

Submissions on the issue of economic hardship were received from Senator Warren Magnuson, Chairman of the Senate Committee on Commerce, the Public Interest Research Group, the Center for Auto Safety, Freightliner Corporation, and Lotus Cars, Ltd. Senator Magnuson and the Research Group have suggested that the NHTSA should adopt application guidelines modeled after those of the Environmental Protection Agency for requests for suspension of the effective date of motor vehicle emission standards. The Research Group has drafted a model application form using the EPA guidelines as a departure point. Senator Magnuson also suggested that cost data concerning the affected component should be required, as well as a chronological analysis by the petitioner of its efforts to comply with the standard following issuance of the notice of proposed rulemaking. Finally, he urged that a company be required to submit an analysis of the effects on its economic stability of the absence of an exemption. The Center for Auto Safety believes that all financial data should be presented in dollar figures. Lotus Cars, Ltd. suggested that, if a manufacturer has no plans to achieve conformity because the production run of a model is nearing its end, the regulations should specifically permit him to so state. Freightliner Corporation commented that hardship should be considered in relation to the total economic picture "including the purchaser" and the particular job a vehicle is intended to perform. It expressed fear that the legislation was not enacted with multi-stage manufacturers in mind. Freightliner appears to be concerned about hardship situations that may occur to manufacturers whose total annual volume exceeds 10,000 units and who are called upon to provide costly custom equipment.

In formulating the regulations for hardship applications the NHTSA has adopted many of the suggestions of Senator Magnuson and the Public Interest Research Group. Engineering and financial data that must be submitted with the application will include a list or description of each component that would have to be modified in order to achieve compliance, together with an itemization of the estimated cost to the petitioner to modify each such component if required to do so on an emergency basis, or at the end of one-, two-, and three-year periods. The manufacturer will also include what it estimates as the price increase per vehicle to balance the total costs incurred were it to achieve compliance, and a statement of the anticipated effect of the price increase. Corporate balance sheets for the three fiscal years immediately preceding the application must be submitted, as well as a projected balance sheet for the fiscal year following any denial of the petition. The financial data must be in dollar figures, as the Center for Auto Safety suggested. The manufacturer would also be allowed to discuss other hardship factors that a denial would cause, such as loss of market. In its description of compliance efforts a manufacturer will be required to submit a chronological analysis showing the relationship of those efforts to the rule-making history of the standard, and to discuss alternate means of compliance that may have been considered, and the reasons for the rejection of each. As proposed, a manufacturer must also describe the steps to be taken while the exemption is in effect to achieve full compliance, and the estimated date by which full compliance will be achieved.

The NHTSA did not adopt the format and informational content of the EPA guidelines for several reasons. There is a basic difference in the Clean Air Act and the Traffic Safety Act. Under the former, the public health is paramount. All motor vehicles must meet certain emission standards by the 1975 model year. A one-year suspension is possible, but only upon technological grounds, and not for economic hardship. Suspensions are granted on the basis of fulfilling four criteria—(1) that it is essential to the public interest and public health of the United States, (2) that all good faith efforts have been made to meet the established standards, (3)

that effective emission control technology is not available, or has not been available for a sufficient time to achieve compliance prior to the effective date of such standard and (4) that the study and investigation of the National Academy of Sciences and other available information has not indicated that technology or other alternatives are available to meet the emission standards. By the 1976 model year all vehicles will comply and no further suspension is possible. The proof to support an emission standard suspension thus differs substantially from that required for hardship. On the other hand, under the Traffic Safety Act, motor vehicle safety must be balanced with other factors of the public interest including the desirability of affording a continuing and wide choice of vehicles to meet differing needs, and encouraging the continuation of relatively small manufacturers. In some instances, the safety exemption sought may be limited in time and scope, and extensively detailed information such as EPA requires may be unnecessary to document the request.

With reference to the comments by Freightliner, the NHTSA does take into account the vehicle purchaser, in that it is concerned with the effect of a denial upon the availability of vehicles and their retail prices. Moreover, throughout its existence this agency has been aware of the problems of custom-truck manufacturers and has tried to accommodate them, consistent with considerations of motor vehicle safety.

2. Other Bases for Exemption. A manufacturer may apply for an exemption for a period not to exceed two years and covering up to 2,500 vehicles for any 12-month period that the exemption is in effect on any one of three additional bases: that it would assist in the development or field evaluation of new motor vehicle safety features, that it would assist in the development or field evaluation of a low-emission vehicle, or that, in the absence of an exemption, it would be unable to sell a motor vehicle whose overall level of safety is equivalent to or exceeds the overall level of safety of non-exempted motor vehicles. To substantiate the development of safety features, it was proposed that the applicant establish the innovational nature of the safety feature and that it would provide a level of safety at

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least equivalent to the level of safety established in the standard from which exemption is sought. To substantiate the development of a low-emission vehicle, it was proposed that the applicant establish the emission feature of his vehicle and that an exemption would aid in its development as well as evidence that a temporary exemption would not unreasonably degrade the safety of the vehicle. Finally, to substantiate that failure to provide an exemption would prevent the sale of an otherwise safe vehicle, it was proposed that an applicant submit evidence that the vehicle could not otherwise be sold, and provide an analysis of how the vehicle provides an overall level of safety equal to or exceeding the overall level of safety of non-exempted vehicles.

The Public Interest Research Group again suggested that the proposal be amplified to provide guidelines similar to those of EPA, and supplied formats for each of the three bases. The NHTSA concurs with the Research Group to the extent that it has expanded the proposal so that the regulation includes some of the information and data suggested, but it has not adopted the format in detail, for the reasons previously discussed.

A manufacturer who wishes to develop or evaluate new safety features must document the innovational nature of the features. He must also submit an analysis establishing that the safety level provided by the feature equals or exceeds the level of safety established in the standard from which exemption is sought, including a description of how complying and non-complying vehicles differ, the results of tests that demonstrate performance which meets or exceeds the safety levels of the standard, and substantiation that a temporary exemption would facilitate the development or field evaluation of the vehicle. The manufacturer is also required to indicate his intent at the end of the exemption period to conform to the standard, or to petition for rulemaking to amend the standard so that the feature might be incorporated into it.

Somewhat similar information is required of a manufacturer who wishes to develop or evaluate a low-emission vehicle, although in this instance the NHTSA is also interested in a manufacturer's test results showing how far the vehicle

deviates from the standard, as part of the manufacturer's showing that the exemption would not unreasonably degrade the safety of the vehicle.

A manufacturer who petitions on the basis that the overall level of safety is equivalent to or exceeds the overall level of non-exempted vehicles must describe how exempted and non-exempted vehicles differ, describe safety features that the vehicle offers as standard equipment that are not required by the Federal standards, and submit both comparative test results showing how far the vehicle deviates from the standard, and the results of any tests showing that the vehicle exceeds the minimum requirements of any Federal standard. The manufacturer must also state whether he intends to comply at the end of the exemption period. Petitions for renewal of an exemption under each of these three bases are required to state the number of exempted vehicles sold in the United States under the prior exemption.

3. *Miscellaneous Comments.* The Public Interest Research Group and the Center for Auto Safety requested that § 555.7, *Processing of petitions*, be rewritten to include a provision for informal public hearings to be held at the discretion of the Administrator. Such a provision, in the opinion of the Research Group, "might well preclude protracted litigation by fully addressing issues in an informal public hearing." The requested provision has not been included in the final rule as it is considered unnecessary. Such a power is inherent in the Administrator's general powers and may be invoked in any appropriate occasions. It is not specifically required by the legislation, which deems notice and an opportunity to comment in writing a sufficient forum and means of assuring informed administrative action and of protecting the public interest.

The Center for Auto Safety requested that § 555.8, *Termination of temporary exemptions*, include a provision that the Administrator will entertain petitions for termination from interested persons. Although such a provision is not necessary since the agency would consider any information brought to its attention that is relevant to its regulatory functions, a section to this effect has been added for public information. It pro-

vides that petitions for termination of an exemption will be handled in accordance with the procedures of §§ 553.31 and .33 on petitions for rulemaking. The Center also asked whether the civil penalty provisions of section 109 could apply in the event it was determined that an exemption had been granted on the basis of fraudulent information. The NHTSA believes that civil penalties could apply in this instance, through the application of sections 108, 109, and 112. In addition, the general fraud provisions of 18 U.S.C. 1001 provide both criminal and civil penalties for submission of false information.

Senator Magnuson, Lotus, and the Research Group commented that the temporary exemption labels (§ 555.9) should include the title of the standard as a matter of clearer public disclosure. The comments have merit and the labels, both windshield and certification, must state the title of any exempted standard. The Research Group has further commented that the NHTSA has ignored the provision of Section 123(b) that written notification of the exemption be delivered to the dealer and first purchaser. The agency does not agree with the Research Group and believes that the windshield label constitutes written notification, fulfilling this discretionary requirement.

Finally, comments were addressed to the adequacy of § 555.10, *Availability for public inspection*. The NHTSA has adopted the Center for Auto Safety's comment that subsection (a) should be revised to provide availability of memoranda of all meetings held pursuant to § 555.7(a). However, the NHTSA has not agreed with the Center's suggestion that the agency commit itself

to make such memoranda available within a specified time limit "such as five working days". The agency will use its best efforts to place memoranda of this nature in the dockets as soon as practicable. The Center, Senator Magnuson, and the Research Group pointed out that Section 123(b) of the Act authorizes the Secretary to withhold only information "not relevant to the application for exemption". This agency concurs and minor rewording of § 555.10(b) clarifies this. Senator Magnuson encourages the agency "as a general policy, to release information contained in applications for exemptions on the basis that all such information is relevant to the application or it would not have been included by the manufacturer". The NHTSA agrees with this general policy. It will carefully scrutinize requests for confidential treatment of information and liberally interpret the relevancy of that information to the petition.

In consideration of the foregoing, Title 49 Code of Federal Regulations is amended by adding Part 555, *Temporary Exemption from Federal Motor Vehicle Safety Standards*, as set forth below.

Effective date: January 29, 1973.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159; Sec. 119, Pub. L. 89-563 (15 U.S.C. 1410, 1407), 80 Stat. 718; delegation of authority at 49 CFR 1.51)

Issued on January 22, 1973.

Douglas W. Toms
Administrator

38 F.R. 2693
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Issued on January 22, 1973.

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Administrator

38 F.R. 2693
January 29, 1973

PREAMBLE TO AMENDMENT TO PART 555—TEMPORARY EXEMPTION FROM MOTOR VEHICLE SAFETY STANDARDS

(Docket No. 72-30; Notice 4)

This notice amends 49 CFR Part 555 to specify that the NHTSA will notify petitioners directly when their petitions are found not to contain required information, and that income statements must be included in support of hardship petitions.

The NHTSA proposed these amendments on October 29, 1973 (38 F.R. 29817). Interested persons have been offered an opportunity to participate in the making of the amendments and due consideration has been given to the two comments that were received in response to the notice.

A comment by H. E. Waterman of Bowie, Maryland, suggests that the agency adopt the essence of Federal Aviation Regulation § 11.25 *Petition for rulemaking or exemptions* to emphasize public interest factors, rather than the "private interests" of the petitioner. Mr. Waterman commented that "If an applicant considers his finances to be of interest relative to his petition, he should be given an opportunity to state his financial condition, but that should not be emphasized by establishment of such a requirement".

Mr. Waterman's comment is inapposite. The exemption authority of the Federal Aviation Administration is broader than that provided the NHTSA, and grant of exemption under FAR § 11.25 is not based specifically upon factors of substantial economic hardship. The NHTSA has concluded that it must request detailed financial data from hardship petitioners to assist it and the public in evaluating the merits of hardship claims, and it does not request such information of petitioners who file for exemption on other grounds.

Mr. Waterman's comment on public interest factors however is in point. In addition to finding that one of the four appropriate statutory bases for exemption is present, the Administrator must also make a finding that the exemption is in the public interest and consistent with the objectives of the National Traffic and Motor Vehicle Safety Act. The regulation currently does not specifically require the petitioner to submit public interest arguments, and the NHTSA believes that it should be amended to so provide. Accordingly § 555.5 *Petition for exemption* is being amended to require the petition to "contain any information, views, or arguments available to the petitioner as to why the granting of the petition would be in the public interest and consistent with the objectives of the Act".

American Motors commented that income statements and balance sheets are generally only part of a larger overall picture of the financial impact of compliance, and that to specifically require them might exclude the submission of other documents which could similarly describe the impact. It suggests amending the regulation to require only that the basis for an exemption for substantial economic hardship be fully documented.

The NHTSA does not consider its informational requirements restrictive and has not adopted the comments of American Motors. Section 556.(a)(1) contains a broad request for "engineering and financial information demonstrating in detail how compliance or failure to obtain an exemption would cause substantial economic hardship" which includes but is not limited to five specific categories of information, plus "(vi) A discussion of other hardships (e.g.

Effective: March 15, 1974

loss of market) that the petitioner desires the agency to consider”.

In consideration of the foregoing, 49 CFR Part 555 is amended

Effective date: March 15, 1974.

(Sec. 3, Pub. L. 92-548, 86 Stat 1159, 15 U.S.C. 1410; sec. 119, Pub. L. 89-563, 80 Stat. 718, 15

U.S.C. 1407; delegation of authority at 49 CFR 1.51.)

Issued on February 7, 1974.

James B. Gregory
Administrator

39 F.R. 5489
February 13, 1974

PREAMBLE TO AMENDMENT TO PART 555—TEMPORARY EXEMPTION FROM MOTOR VEHICLE SAFETY STANDARDS

(Docket No. 72-30; Notice 4)

This notice amends 49 CFR Part 555 to specify that the NHTSA will notify petitioners directly when their petitions are found not to contain required information, and that income statements must be included in support of hardship petitions.

The NHTSA proposed these amendments on October 29, 1973 (38 F.R. 29817). Interested persons have been offered an opportunity to participate in the making of the amendments and due consideration has been given to the two comments that were received in response to the notice.

A comment by H. E. Waterman of Bowie, Maryland, suggests that the agency adopt the essence of Federal Aviation Regulation § 11.25 *Petition for rulemaking or exemptions* to emphasize public interest factors, rather than the "private interests" of the petitioner. Mr. Waterman commented that "If an applicant considers his finances to be of interest relative to his petition, he should be given an opportunity to state his financial condition, but that should not be emphasized by establishment of such a requirement".

Mr. Waterman's comment is inapposite. The exemption authority of the Federal Aviation Administration is broader than that provided the NHTSA, and grant of exemption under FAR § 11.25 is not based specifically upon factors of substantial economic hardship. The NHTSA has concluded that it must request detailed financial data from hardship petitioners to assist it and the public in evaluating the merits of hardship claims, and it does not request such information of petitioners who file for exemption on other grounds.

Mr. Waterman's comment on public interest factors however is in point. In addition to finding that one of the four appropriate statutory bases for exemption is present, the Administrator must also make a finding that the exemption is in the public interest and consistent with the objectives of the National Traffic and Motor Vehicle Safety Act. The regulation currently does not specifically require the petitioner to submit public interest arguments, and the NHTSA believes that it should be amended to so provide. Accordingly § 555.5 *Petition for exemption* is being amended to require the petition to "contain any information, views, or arguments available to the petitioner as to why the granting of the petition would be in the public interest and consistent with the objectives of the Act".

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The NHTSA does not consider its informational requirements restrictive and has not adopted the comments of American Motors. Section 556.(a)(1) contains a broad request for "engineering and financial information demonstrating in detail how compliance or failure to obtain an exemption would cause substantial economic hardship" which includes but is not limited to five specific categories of information, plus "(vi) A discussion of other hardships (e.g.

Effective: March 15, 1974

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U.S.C. 1407; delegation of authority at 49 CFR 1.51.)

Issued on February 7, 1974.

James B. Gregory
Administrator

39 F.R. 5489
February 13, 1974

PREAMBLE TO AMENDMENT TO PART 555—TEMPORARY EXEMPTION FROM MOTOR VEHICLE SAFETY STANDARDS

(Docket No. 72-30; Notice 5)

This notice amends 49 CFR Part 555 to specify that denials as well as grants are published in the *Federal Register*, and to clarify that the effective date of a temporary exemption is its date of publication in the *Federal Register* unless a later effective date is specified. The amendments also specify that an expiring exemption does not terminate during consideration of a petition for its renewal.

These amendments pertain to agency practice and are interpretative in nature. Accordingly, pursuant to 5 U.S.C. § 553(b), it has been found that no notice of proposed rulemaking is called for.

Section 555.7(a) is amended to specify that when the Administrator determines that a petition does not contain adequate justification and is denied, the petitioner is notified in writing and a notice of the denial is published in the *Federal Register*. Publication of denials has been an agency practice and the regulation is amended to reflect it.

A new subparagraph (f) is added to 49 CFR 555.7 to specify that the effective date of a temporary exemption is the date of publication of the notice of grant in the *Federal Register* unless a later effective date is specified. Interested persons have asked whether exemptions can be made effective as of the date of the filing of a petition for relief, or can include the total production of a model year that begins before the date an exemption is granted. This amendment is intended to clarify the agency's policy that exemptions should not have a retroactive effect which could serve to excuse manufacture of nonconforming

vehicles in violation of section 108(a)(1) of the National Traffic and Motor Vehicle Safety Act.

In section 555.8 the references to paragraph (c) in paragraphs (a) and (b) are changed to paragraph (d), to indicate that the cause of an early termination of an exemption by the Administrator is through administrative action (paragraph (d)), rather than through petition by interested persons (paragraph (c)). A new paragraph (c) is added to § 555.8, implementing the Administrative Procedure Act provision at 5 U.S.C. § 558(c), stating in effect that when a timely and sufficient application for renewal of a temporary exemption has been received before the exemption's termination date, the exemption does not expire until the Administrator grants or denies the petition for renewal. A timely application is one that is received not later than 60 days before the expiration of an exemption. A sufficient application is one that contains information required by § 555.5.

In consideration of the foregoing, 49 CFR Part 555 is amended. . . .

Effective date: November 24, 1974.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159, 15 U.S.C. 1410; sec. 119, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1407; delegation of authority at 49 CFR 1.51).

Issued on October 21, 1974.

James B. Gregory
Administrator

39 F.R. 37988

October 25, 1974

PREAMBLE TO AMENDMENT TO PART 555—TEMPORARY EXEMPTION FROM MOTOR VEHICLE SAFETY STANDARDS

(Docket No. 72-30; Notice 5)

This notice amends 49 CFR Part 555 to specify that denials as well as grants are published in the *Federal Register*, and to clarify that the effective date of a temporary exemption is its date of publication in the *Federal Register* unless a later effective date is specified. The amendments also specify that an expiring exemption does not terminate during consideration of a petition for its renewal.

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A new subparagraph (f) is added to 49 CFR 555.7 to specify that the effective date of a temporary exemption is the date of publication of the notice of grant in the *Federal Register* unless a later effective date is specified. Interested persons have asked whether exemptions can be made effective as of the date of the filing of a petition for relief, or can include the total production of a model year that begins before the date an exemption is granted. This amendment is intended to clarify the agency's policy that exemptions should not have a retroactive effect which could serve to excuse manufacture of nonconforming

vehicles in violation of section 108(a)(1) of the National Traffic and Motor Vehicle Safety Act.

In section 555.8 the references to paragraph (c) in paragraphs (a) and (b) are changed to paragraph (d), to indicate that the cause of an early termination of an exemption by the Administrator is through administrative action (paragraph (d)), rather than through petition by interested persons (paragraph (c)). A new paragraph (c) is added to § 555.8, implementing the Administrative Procedure Act provision at 5 U.S.C. § 558(c), stating in effect that when a timely and sufficient application for renewal of a temporary exemption has been received before the exemption's termination date, the exemption does not expire until the Administrator grants or denies the petition for renewal. A timely application is one that is received not later than 60 days before the expiration of an exemption. A sufficient application is one that contains information required by § 555.5.

In consideration of the foregoing, 49 CFR Part 555 is amended. . . .

Effective date: November 24, 1974.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159, 15 U.S.C. 1410; sec. 119, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1407; delegation of authority at 49 CFR 1.51).

Issued on October 21, 1974.

James B. Gregory
Administrator

39 F.R. 37988

October 25, 1974

PREAMBLE TO AMENDMENT TO PART 555—TEMPORARY EXEMPTION FROM MOTOR VEHICLE SAFETY STANDARDS

(Docket No. 73-20; Notice 6)

This notice amends 49 CFR § 555.10(b) to clarify that information made available for public inspection shall include all submitted materials that are specifically required by § 555.6. The amendment is effective 30 days after publication in the *Federal Register*.

This amendment pertains to agency practice and is clarifying and interpretative in nature. Accordingly, pursuant to 5 U.S.C. 553(b), it is found that notice of proposed rulemaking is unnecessary.

Currently § 555.10(b) states that "Information made available for inspection shall not include materials not relevant to the petition that are to be withheld from the public in accordance with sections 112 and 113 of the Act (15 U.S.C. 1401, 1402) and section 552(b) of Title 5 of the United States Code."

Some petitioners for temporary exemptions on hardship grounds have requested that confidential treatment be given such items as estimated price increases that would be caused by compliance, projected balance sheets and income statements for the fiscal year following denial of a petition, or the efforts to be taken to achieve compliance while the exemption is in effect. The usual reason given is that the information could be harmful to the petitioner in the hands of its competitors. The NHTSA has uniformly denied

such requests if they involve materials that the regulation specifically requires to be submitted. These materials are necessary for a determination by the NHTSA of whether the statutory basis for exemption exists. This agency finds that all materials it requests pursuant to the regulation, and which are used in its own decisions, should be available for inspection in the docket by members of the public who wish to reach their own conclusion on the merits of the petition. Materials submitted gratuitously will, of course, be withheld from availability for inspection, if the petitioner requests it and if it is a matter that may be withheld in accordance with sections 112, 113, and 158 of the National Traffic and Motor Vehicle Safety Act.

In consideration of the foregoing, 49 CFR § 555.10(b) is amended. . . .

Effective date: May 30, 1975.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159, 15 U.S.C. 1410, sec. 119, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1407; delegation of authority at 49 CFR 1.51.)

Issued on April 24, 1975.

James B. Gregory
Administrator

**40 F.R. 18789
April 30, 1975**

PREAMBLE TO AMENDMENT TO PART 555—TEMPORARY EXEMPTION FROM MOTOR VEHICLE SAFETY STANDARDS

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In consideration of the foregoing, 49 CFR § 555.10(b) is amended. . . .

Effective date: May 30, 1975.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159, 15 U.S.C. 1410, sec. 119, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1407; delegation of authority at 49 CFR 1.51.)

Issued on April 24, 1975.

James B. Gregory
Administrator

**40 F.R. 18789
April 30, 1975**

PREAMBLE TO AMENDMENT TO PART 555—TEMPORARY EXEMPTION FROM FEDERAL MOTOR VEHICLE SAFETY STANDARDS

(Docket 73-20; Notice 7)

This notice amends 49 CFR Part 555 to reflect the fact that the Administrator considers petitions to modify exemptions.

On July 7, 1975, the Administrator published notice (40 F.R. 28504) of a petition by General Motors Corporation to modify the temporary exemption previously granted Motor Coach Industries, Inc. Under § 555.8(c) the Administrator may receive petitions to terminate temporary exemptions, and, under § 555.8(d), he may terminate them. The Administrator's power with respect to temporary exemptions necessarily includes modification of an exemption when to do so is in the public interest and consistent with the objectives of the National Traffic and Motor Vehicle Safety Act, or when the exemption is based upon misrepresentations. Accordingly, § 555.8(c) and § 555.8(d) are amended to reflect this fact. In addition, the section references to processing of petitions (§ 555.31, § 555.35) are changed to Part 552 to reflect recent amendments (40 F.R. 42014). A new paragraph

is added to specify that notices of termination or modification will appear in the Federal Register.

In consideration of the foregoing, in § 555.8 of Title 49, Code of Federal Regulations, paragraph (c) and the introductory phase of paragraph (d) are revised, and paragraph (f) is added. . . .

Effective date: September 10, 1975. Since the amendment reflects internal policy and procedure it may be made effective upon publication.

(Sec. 3, Pub. L. 92-548, 86 Stat 1159, 15 U.S.C. 1410, Sec. 119, Pub. L. 89-563, 80 Stat 718, 15 U.S.C. 1407; delegation of authority at 49 CFR 1.51.)

Issued on September 4, 1975.

James B. Gregory
Administrator

40 F.R. 42015
September 10, 1975

PREAMBLE TO AMENDMENT TO PART 555—TEMPORARY EXEMPTION FROM FEDERAL MOTOR VEHICLE SAFETY STANDARDS

(Docket 73-20; Notice 7)

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(Sec. 3, Pub. L. 92-548, 86 Stat 1159, 15 U.S.C. 1410, Sec. 119, Pub. L. 89-563, 80 Stat 718, 15 U.S.C. 1407; delegation of authority at 49 CFR 1.51.)

Issued on September 4, 1975.

James B. Gregory
Administrator

**40 F.R. 42015
September 10, 1975**

PREAMBLE TO AN AMENDMENT TO PART 555—TEMPORARY EXEMPTION FROM MOTOR VEHICLE SAFETY STANDARDS

**(Docket Nos. FE 76-04; Notice 5;
FE 77-03, Notice 4; 80-21, Notice 1)**

ACTION: Final Rule.

SUMMARY: This notice makes conforming amendments to several of the agency's regulations deleting specific requirements for confidentiality determinations. These conforming amendments are needed as a result of the publication today of a new agency regulation governing requests for confidentiality determinations (Part 512). Since that new regulation supercedes the confidentiality provisions existing in several of the agency's other regulations, these conforming amendments are being made without notice and opportunity for comment.

EFFECTIVE DATE: These amendments are effective April 9, 1981.

FOR FURTHER INFORMATION CONTACT:

Roger Tilton, Office of Chief Counsel,
National Highway Traffic Safety Administration, 400 Seventh Street, S.W.,
Washington, D.C. 20590 (202-426-9511).

SUPPLEMENTARY INFORMATION: In accordance with the above, Title 49 of the Code of Federal Regulations is amended as follows.

Part 525, *Exemptions From Average Fuel Economy Standards*, is revised as follows:

(1) Section 525.6(g) (1) and (2) are deleted and replaced with the following:

(g) Specify and segregate any part of the information and data submitted under this part that the petitioner wishes to have withheld from public disclosure in accordance with Part 512 of this Chapter.

(2) Section 525.13 is deleted and section 525.12 is revised to read:

§ 525.12 Public Inspection of Information.

(a) Except as provided in paragraph (b), any person may inspect available information relevant to a petition under this Part, including the petition and any supporting data, memoranda of informal meetings with the petitioner or any other interested persons, and the notices regarding the petition, in the Docket Section of the National Highway Traffic Safety Administration. Any person may obtain copies of the information available for inspection under this paragraph in accordance with Part 7 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 7).

(b) Except for the release of confidential information authorized by section 505 of the Act and Part 512 of this Chapter, information made available for public inspection does not include information for which confidentiality is requested under § 525.6(g) and is granted in accordance with Part 512 and sections 502 and 505 of the Act and section 552(b) of Title 5 of the United States Code.

Part 537, *Automotive Fuel Economy Reports*, is revised as follows:

(1) Section 537.5(c) (7) (i) and (ii) are deleted and replaced with the following:

(7) Specify any part of the information or data in the report that the manufacturer believes should be withheld from public disclosure as trade secret or other confidential business information in accordance with Part 512 of this Chapter.

(2) Section 537.12 is deleted and section 537.11 is revised to read:

§ 537.11 Public Inspection of Information.

(a) Except as provided in paragraph (b), any person may inspect the information and data submit-

ted by a manufacturer under this part in the docket section of the National Highway Traffic Safety Administration. Any person may obtain copies of the information available for inspection under this section in accordance with the regulations of the Secretary of Transportation in Part 7 of this title.

(b) Except for the release of confidential information authorized by section 505 of the Act and Part 512 of this Chapter, information made available under paragraph (a) for public inspection does not include information for which confidentiality is requested under § 537.5(c)(7) and is granted in accordance with Part 512 of this Chapter, section 505 of the Act, and section 552(b) of Title 5 of the United States Code.

Part 555, *Temporary Exemption From Motor Vehicle Safety Standards*, is revised as follows:

(1) Section 555.5(b) (6) is revised to read:

(6) Specify any part of the information and data submitted which petitioner requests be

withheld from public disclosure in accordance with Part 512 of this Chapter.

(2) Section 555.10(b) is revised to read:

(b) Except for the release of confidential information authorized by Part 512 of this Chapter, information made available for inspection under paragraph (a) shall not include materials not relevant to the petition for which confidentiality is requested and granted in accordance with sections 112, 113, and 158 of the Act (15 U.S.C. 1401, 1402, and 1418) and section 552(b) of Title 5 of the United States Code.

Issued on December 30, 1980.

Joan Claybrook
Administrator

46 F.R. 2063
January 8, 1981

PREAMBLE TO AN AMENDMENT TO PART 555—TEMPORARY EXEMPTION FROM MOTOR VEHICLE SAFETY STANDARDS

**(Docket Nos. FE 76-04; Notice 5;
FE 77-03, Notice 4; 80-21, Notice 1)**

ACTION: Final Rule.

SUMMARY: This notice makes conforming amendments to several of the agency's regulations deleting specific requirements for confidentiality determinations. These conforming amendments are needed as a result of the publication today of a new agency regulation governing requests for confidentiality determinations (Part 512). Since that new regulation supercedes the confidentiality provisions existing in several of the agency's other regulations, these conforming amendments are being made without notice and opportunity for comment.

EFFECTIVE DATE: These amendments are effective April 9, 1981.

FOR FURTHER INFORMATION CONTACT:

Roger Tilton, Office of Chief Counsel,
National Highway Traffic Safety Adminis-
tration, 400 Seventh Street, S.W.,
Washington, D.C. 20590 (202-426-9511).

SUPPLEMENTARY INFORMATION: In accordance with the above, Title 49 of the Code of Federal Regulations is amended as follows.

Part 525, *Exemptions From Average Fuel Economy Standards*, is revised as follows:

(1) Section 525.6(g) (1) and (2) are deleted and replaced with the following:

(g) Specify and segregate any part of the information and data submitted under this part that the petitioner wishes to have withheld from public disclosure in accordance with Part 512 of this Chapter.

(2) Section 525.13 is deleted and section 525.12 is revised to read:

§ 525.12 Public inspection of information.

(a) Except as provided in paragraph (b), any person may inspect available information relevant to a petition under this Part, including the petition and any supporting data, memoranda of informal meetings with the petitioner or any other interested persons, and the notices regarding the petition, in the Docket Section of the National Highway Traffic Safety Administration. Any person may obtain copies of the information available for inspection under this paragraph in accordance with Part 7 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 7).

(b) Except for the release of confidential information authorized by section 505 of the Act and Part 512 of this Chapter, information made available for public inspection does not include information for which confidentiality is requested under § 525.6(g) and is granted in accordance with Part 512 and sections 502 and 505 of the Act and section 552(b) of Title 5 of the United States Code.

Part 537, *Automotive Fuel Economy Reports*, is revised as follows:

(1) Section 537.5(c) (7) (i) and (ii) are deleted and replaced with the following:

(7) Specify any part of the information or data in the report that the manufacturer believes should be withheld from public disclosure as trade secret or other confidential business information in accordance with Part 512 of this Chapter.

(2) Section 537.12 is deleted and section 537.11 is revised to read:

§ 537.11 Public inspection of information.

(a) Except as provided in paragraph (b), any person may inspect the information and data submit-

ted by a manufacturer under this part in the docket section of the National Highway Traffic Safety Administration. Any person may obtain copies of the information available for inspection under this section in accordance with the regulations of the Secretary of Transportation in Part 7 of this title.

(b) Except for the release of confidential information authorized by section 505 of the Act and Part 512 of this Chapter, information made available under paragraph (a) for public inspection does not include information for which confidentiality is requested under § 537.5(c)(7) and is granted in accordance with Part 512 of this Chapter, section 505 of the Act, and section 552(b) of Title 5 of the United States Code.

Part 555, *Temporary Exemption From Motor Vehicle Safety Standards*, is revised as follows:

(1) Section 555.5(b)(6) is revised to read:

(6) Specify any part of the information and data submitted which petitioner requests be

withheld from public disclosure in accordance with Part 512 of this Chapter.

(2) Section 555.10(b) is revised to read:

(b) Except for the release of confidential information authorized by Part 512 of this Chapter, information made available for inspection under paragraph (a) shall not include materials not relevant to the petition for which confidentiality is requested and granted in accordance with sections 112, 113, and 158 of the Act (15 U.S.C. 1401, 1402, and 1418) and section 552(b) of Title 5 of the United States Code.

Issued on December 30, 1980.

Joan Claybrook
Administrator

46 F.R. 2063
January 8, 1981

PART 555—TEMPORARY EXEMPTION FROM MOTOR VEHICLE SAFETY STANDARDS

§ 555.1 Scope. This part establishes requirements for the temporary exemption, by the National Highway Traffic Safety Administration (NHTSA), of certain motor vehicles from compliance with one or more Federal motor vehicle safety standards in accordance with section 123 of the National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1410.

§ 555.2 Purpose. The purpose of this part is to provide a means by which manufacturers of motor vehicles may obtain temporary exemptions from Federal motor vehicle safety standards on the bases of substantial economic hardship, facilitation of the development of new motor vehicle safety or low-emission engine features, or existence of an equivalent overall level of motor vehicle safety.

§ 555.3 Application. This part applies to manufacturers of motor vehicles.

§ 555.4 Definitions.

“Administrator” means the National Highway Traffic Safety Administrator or his delegate.

“United States” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

§ 555.5 Petition for exemption.

(a) A manufacturer of motor vehicles may petition the NHTSA for a temporary exemption from any Federal motor vehicle safety standard or for a renewal of any exemption on the bases of substantial economic hardship, facilitation of the development of new motor vehicle safety or low-emission engine features, or the existence of an equivalent overall level of motor vehicle safety.

(b) Each petition filed under this part for an exemption or its renewal must—

- (1) Be written in the English language;
- (2) Be submitted in three copies to:

Administrator, National Highway Traffic Safety Administration, Washington, D.C. 20590;

(3) State the full name and address of the applicant, the nature of its organization (individual, partnership, corporation, etc.) and the name of the State or country under the laws of which it is organized;

(4) State the number and title, and the text or substance of the standard or portion thereof from which the temporary exemption is sought, and the length of time desired for such exemption;

(5) Set forth the basis for the petition and the information required by § 555.6(a), (b), (c), or (d) as appropriate.

[(6) Specify any part of the information and data submitted which petitioner requests be withheld from public disclosure in accordance with Part 512 of this Chapter.

(7) Set forth the reasons why the granting of the exemption would be in the public interest and consistent with the objectives of the National Traffic and Motor Vehicle Safety Act.

(c) The knowing and willful submission of false, fictitious or fraudulent information will subject the petitioner to the civil and criminal penalties of 18 U.S.C. 1001. (46 F.R. 2063—January 8, 1981. Effective: April 9, 1981)]

§ 555.6 Basis for petition.

(a) If the basis of the petition is substantial economic hardship the petitioner shall provide the following information.

(1) Engineering and financial information demonstrating in detail how compliance or failure to obtain an exemption would cause substantial economic hardship, including—

- (i) A list or description of each item of motor vehicle equipment that would have to be modified in order to achieve compliance;

(ii) The itemized estimated cost to modify each such item of motor vehicle equipment if compliance were to be achieved—

(A) As soon as possible,

(B) At the end of a one-year exemption period, (if the petition is for one year or more)

(C) At the end of a two-year exemption period, (if the petition is for two years or more)

(D) At the end of a three-year exemption period, (if the petition is for three years)

(iii) The estimated price increase per vehicle to balance the total costs incurred pursuant to subdivision (ii) of this subparagraph and a statement of the anticipated effect of each such price increase;

(iv) Corporate balance sheets and income statements for the three fiscal years immediately preceding the filing of the application;

(v) Projected balance sheet and income statement for the fiscal year following a denial of the petition; and

(vi) A discussion of any other hardships (*e.g.*, loss of market) that the petitioner desires the agency to consider.

(2) A description of its efforts to comply with the standards, including—

(i) A chronological analysis of such efforts showing its relationship to the rulemaking history of the standard from which exemption is sought;

(ii) A discussion of alternate means of compliance considered and the reasons for rejection of each;

(iii) A description of the steps to be taken, while the exemption is in effect, and the estimated date by which full compliance will be achieved either by design changes or termination of production of nonconforming vehicles; and

(iv) The total number of motor vehicles produced by or on behalf of the petitioner in the 12-month period prior to filing the petition, and

the inclusive dates of the period. (Section 123 of the Act limits eligibility for exemption on the basis of economic hardship to manufacturers whose total motor vehicle production does not exceed 10,000.)

(b) If the basis of the petition is the development or field evaluation of new motor vehicle safety features, the petitioner shall provide the following information:

(1) A description of the safety features, and research, development, and testing documentation establishing the innovational nature of such features.

(2) An analysis establishing that the level of safety of the features is equivalent to or exceeds the level of safety established in the standard from which exemption is sought, including—

(i) A detailed description of how a motor vehicle equipped with the safety features differs from one that complies with the standard;

(ii) If applicant is presently manufacturing a vehicle conforming to the standard, the results of tests conducted to substantiate certification to the standard; and

(iii) The results of tests conducted on the safety features that demonstrate performance which meets or exceeds the requirements of the standard.

(3) Substantiation that a temporary exemption would facilitate the development or field evaluation of the vehicle.

(4) A statement whether, at the end of the exemption period, the manufacturer intends to conform to the standard, apply for a further exemption, or petition for rulemaking to amend the standard to incorporate the safety features.

(5) A statement that not more than 2,500 exempted vehicles will be sold in the United States in any 12-month period for which an exemption may be granted pursuant to this paragraph. A petition for renewal of such an exemption shall also include the total number of exempted vehicles sold in the United States under the existing exemption.

(c) If the basis of the petition is the development or field evaluation of a low-emission vehicle, the petitioner shall provide—

PART 555—TEMPORARY EXEMPTION FROM MOTOR VEHICLE SAFETY STANDARDS

§ 555.1 Scope. This part establishes requirements for the temporary exemption, by the National Highway Traffic Safety Administration (NHTSA), of certain motor vehicles from compliance with one or more Federal motor vehicle safety standards in accordance with section 123 of the National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1410.

§ 555.2 Purpose. The purpose of this part is to provide a means by which manufacturers of motor vehicles may obtain temporary exemptions from Federal motor vehicle safety standards on the bases of substantial economic hardship, facilitation of the development of new motor vehicle safety or low-emission engine features, or existence of an equivalent overall level of motor vehicle safety.

§ 555.3 Application. This part applies to manufacturers of motor vehicles.

§ 555.4 Definitions.

“Administrator” means the National Highway Traffic Safety Administrator or his delegate.

“United States” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

§ 555.5 Petition for exemption.

(a) A manufacturer of motor vehicles may petition the NHTSA for a temporary exemption from any Federal motor vehicle safety standard or for a renewal of any exemption on the bases of substantial economic hardship, facilitation of the development of new motor vehicle safety or low-emission engine features, or the existence of an equivalent overall level of motor vehicle safety.

(b) Each petition filed under this part for an exemption or its renewal must—

- (1) Be written in the English language;
- (2) Be submitted in three copies to:

Administrator, National Highway Traffic Safety Administration, Washington, D.C. 20590;

(3) State the full name and address of the applicant, the nature of its organization (individual, partnership, corporation, etc.) and the name of the State or country under the laws of which it is organized;

(4) State the number and title, and the text or substance of the standard or portion thereof from which the temporary exemption is sought, and the length of time desired for such exemption;

(5) Set forth the basis for the petition and the information required by § 555.6(a), (b), (c), or (d) as appropriate.

[(6) Specify any part of the information and data submitted which petitioner requests be withheld from public disclosure in accordance with Part 512 of this Chapter.

(7) Set forth the reasons why the granting of the exemption would be in the public interest and consistent with the objectives of the National Traffic and Motor Vehicle Safety Act.

(c) The knowing and willful submission of false, fictitious or fraudulent information will subject the petitioner to the civil and criminal penalties of 18 U.S.C. 1001. (46 F.R. 2063—January 8, 1981. Effective: April 9, 1981)]

§ 555.6 Basis for petition.

(a) If the basis of the petition is substantial economic hardship the petitioner shall provide the following information.

(1) Engineering and financial information demonstrating in detail how compliance or failure to obtain an exemption would cause substantial economic hardship, including—

- (i) A list or description of each item of motor vehicle equipment that would have to be modified in order to achieve compliance;

(ii) The itemized estimated cost to modify each such item of motor vehicle equipment if compliance were to be achieved—

(A) As soon as possible,

(B) At the end of a one-year exemption period, (if the petition is for one year or more)

(C) At the end of a two-year exemption period, (if the petition is for two years or more)

(D) At the end of a three-year exemption period, (if the petition is for three years)

(iii) The estimated price increase per vehicle to balance the total costs incurred pursuant to subdivision (ii) of this subparagraph and a statement of the anticipated effect of each such price increase;

(iv) Corporate balance sheets and income statements for the three fiscal years immediately preceding the filing of the application;

(v) Projected balance sheet and income statement for the fiscal year following a denial of the petition; and

(vi) A discussion of any other hardships (*e.g.*, loss of market) that the petitioner desires the agency to consider.

(2) A description of its efforts to comply with the standards, including—

(i) A chronological analysis of such efforts showing its relationship to the rulemaking history of the standard from which exemption is sought;

(ii) A discussion of alternate means of compliance considered and the reasons for rejection of each;

(iii) A description of the steps to be taken, while the exemption is in effect, and the estimated date by which full compliance will be achieved either by design changes or termination of production of nonconforming vehicles; and

(iv) The total number of motor vehicles produced by or on behalf of the petitioner in the 12-month period prior to filing the petition, and

the inclusive dates of the period. (Section 123 of the Act limits eligibility for exemption on the basis of economic hardship to manufacturers whose total motor vehicle production does not exceed 10,000.)

(b) If the basis of the petition is the development or field evaluation of new motor vehicle safety features, the petitioner shall provide the following information:

(1) A description of the safety features, and research, development, and testing documentation establishing the innovational nature of such features.

(2) An analysis establishing that the level of safety of the features is equivalent to or exceeds the level of safety established in the standard from which exemption is sought, including—

(i) A detailed description of how a motor vehicle equipped with the safety features differs from one that complies with the standard;

(ii) If applicant is presently manufacturing a vehicle conforming to the standard, the results of tests conducted to substantiate certification to the standard; and

(iii) The results of tests conducted on the safety features that demonstrate performance which meets or exceeds the requirements of the standard.

(3) Substantiation that a temporary exemption would facilitate the development or field evaluation of the vehicle.

(4) A statement whether, at the end of the exemption period, the manufacturer intends to conform to the standard, apply for a further exemption, or petition for rulemaking to amend the standard to incorporate the safety features.

(5) A statement that not more than 2,500 exempted vehicles will be sold in the United States in any 12-month period for which an exemption may be granted pursuant to this paragraph. A petition for renewal of such an exemption shall also include the total number of exempted vehicles sold in the United States under the existing exemption.

(c) If the basis of the petition is the development or field evaluation of a low-emission vehicle, the petitioner shall provide—

(1) Substantiation that the motor vehicle is a low-emission vehicle as defined by section 123(g) of the Act.

(2) Research, development, and testing documentation establishing that a temporary exemption would not unreasonably degrade the safety of the vehicle, including—

(i) A detailed description of how the motor vehicle equipped with the low-emission engine would, if exempted, differ from one that complies with the standard;

(ii) If applicant is presently manufacturing a vehicle conforming to the standard, the results of tests conducted to substantiate certification to the standard;

(iii) The results of any tests conducted on the vehicle that demonstrate its failure to meet the standard, expressed as comparative performance levels; and

(iv) Reasons why the failure to meet the standard does not unreasonably degrade the safety of the vehicle.

(3) Substantiation that a temporary exemption would facilitate the development or field evaluation of the vehicle.

(4) A statement whether, at the end of the exemption period, the manufacturer intends to conform with the standard.

(5) A statement that not more than 2,500 exempted vehicles will be sold in the United States in any 12-month period for which an exemption may be granted pursuant to this paragraph. A petition for renewal of an exemption shall also include the total number of exempted vehicles sold in the United States under the existing exemption.

(d) If the basis of the petition is that the petitioner is otherwise unable to sell a motor vehicle whose overall level of safety is equivalent to or exceeds the overall level of safety of non-exempted motor vehicles, the petitioner shall provide—

(1) A detailed analysis of how the vehicle provides an overall level of safety equivalent to or exceeding the overall safety of non-exempted vehicles, including—

(i) A detailed description of how the motor vehicle, if exempted, differs from one that conforms to the standard;

(ii) A detailed description of any safety features that the motor vehicle offers as standard equipment that are not required by the Federal motor vehicle safety standards;

(iii) The results of any tests conducted on the vehicle demonstrating that it fails to meet the standard, expressed as comparative performance levels;

(iv) The results of any tests conducted on the vehicle demonstrating that its overall level of safety exceeds that which is achieved by conformity to the standards.

(v) Other arguments that the overall level of safety of the vehicle equals or exceeds the level of safety of non-exempted vehicles.

(2) Substantiation that compliance would prevent the sale of the vehicle.

(3) A statement whether, at the end of the exemption period, the manufacturer intends to comply with the standard.

(4) A statement that not more than 2,500 exempted vehicles will be sold in the United States in any 12-month period for which an exemption may be granted pursuant to this paragraph. A petition for renewal of any exemption shall also include the total number of exempted vehicles sold in the United States under the existing exemption.

§ 555.7 Processing of petitions.

(a) The NHTSA publishes in the *Federal Register*, affording opportunity for comment, a notice of each petition containing the information required by this part. However, if the NHTSA finds that a petition does not contain the information required by this part, it so informs the petitioner, pointing out the areas of insufficiency and stating that the petition will not receive further consideration until the required information is submitted.

(b) No public hearing, argument or other formal proceeding is held directly on a petition filed under this part before its disposition under this section.

(c) Any interested person may, upon written request, appear informally before an appropriate official of the NHTSA to discuss a petition for

exemption or the action taken in response to a petition.

(d) If the Administrator determines that the petition does not contain adequate justification, he denies it and notifies the petitioner in writing. He also publishes in the *Federal Register* a notice of the denial and the reasons for it.

(e) If the Administrator determines that the petition contains adequate justification, he grants it, and notifies the petitioner in writing. He also publishes in the *Federal Register* a notice of the grant and the reasons for it.

(f) Unless a later effective date is specified in the notice of the grant, temporary exemption is effective upon publication of the notice in the *Federal Register* and exempts vehicles manufactured on and after the effective date.

§ 555.8 Termination of temporary exemptions.

(a) A temporary exemption from a standard granted on the basis of substantial economic hardship terminates according to its terms but not later than 3 years after the date of issuance unless terminated sooner pursuant to paragraph (d) of this section.

(b) A temporary exemption from a standard granted on a basis other than substantial economic hardship terminates according to its terms but not later than 2 years after the date of issuance unless terminated sooner pursuant to subparagraph (d).

(c) Any interested person may petition for the termination or modification of an exemption granted under this part. The petition will be processed in accordance with the procedures of Part 552 of this chapter.

(d) The Administrator terminates or modifies a temporary exemption if he determines that—

(1) The temporary exemption is no longer consistent with the public interest and the objectives of the Act; or

(2) The temporary exemption was granted on the basis of false, fraudulent, or misleading representations or information.

(e) If a petition for renewal of a temporary exemption that meets the requirements of § 555.5 has been filed not later than 60 days before the termination date of an exemption, the exemption does not terminate until the Administrator grants or denies the petition for renewal.

(f) The Administrator publishes in the *Federal Register* a notice of

(i) a petition for termination or modification of an exemption and the action taken in response to it; and

(ii) any termination or modification of an exemption pursuant to the Administrator's own motion.

§ 555.9 Temporary exemption labels. A manufacturer of an exempted vehicle shall—

(a) Submit to the Administrator, within 30 days after receiving notification of the grant of an exemption, a sample of the certification label required by PART 567 of this chapter and paragraph (c) of this section;

(b) Affix securely to the windshield or side window of each exempted vehicle a label in the English language containing the statement required by paragraph (c) (1) or (c) (2) of this section, and with the words "SHOWN ABOVE" omitted.

(c) Meet all applicable requirements of Part 567 of this chapter, except that—

(1) Instead of the statement required by § 567.4(g) (5) of this Chapter, the following statement shall appear: "THIS VEHICLE CONFORMS TO ALL APPLICABLE FEDERAL MOTOR VEHICLE SAFETY [AND BUMPER] STANDARDS IN EFFECT ON THE DATE OF MANUFACTURE SHOWN ABOVE EXCEPT FOR STANDARDS NOS. [Listing the standards by number and title for which an exemption has been granted]. EXEMPTED PURSUANT TO NHTSA EXEMPTION NO. _____."

(2) Instead of the statement required by § 567.5(c) (7) (iii), the following statement shall appear: "THIS VEHICLE CONFORMS TO ALL APPLICABLE FEDERAL MOTOR VEHICLE SAFETY [AND BUMPER] STANDARDS IN EFFECT IN [Month, Year] EXCEPT FOR STANDARD NOS. [Listing the standards by number and title for which an exemption has been granted]. EXEMPTED PURSUANT TO NHTSA EXEMPTION NO. _____"

(1) Substantiation that the motor vehicle is a low-emission vehicle as defined by section 123(g) of the Act.

(2) Research, development, and testing documentation establishing that a temporary exemption would not unreasonably degrade the safety of the vehicle, including—

(i) A detailed description of how the motor vehicle equipped with the low-emission engine would, if exempted, differ from one that complies with the standard;

(ii) If applicant is presently manufacturing a vehicle conforming to the standard, the results of tests conducted to substantiate certification to the standard;

(iii) The results of any tests conducted on the vehicle that demonstrate its failure to meet the standard, expressed as comparative performance levels; and

(iv) Reasons why the failure to meet the standard does not unreasonably degrade the safety of the vehicle.

(3) Substantiation that a temporary exemption would facilitate the development or field evaluation of the vehicle.

(4) A statement whether, at the end of the exemption period, the manufacturer intends to conform with the standard.

(5) A statement that not more than 2,500 exempted vehicles will be sold in the United States in any 12-month period for which an exemption may be granted pursuant to this paragraph. A petition for renewal of an exemption shall also include the total number of exempted vehicles sold in the United States under the existing exemption.

(d) If the basis of the petition is that the petitioner is otherwise unable to sell a motor vehicle whose overall level of safety is equivalent to or exceeds the overall level of safety of non-exempted motor vehicles, the petitioner shall provide—

(1) A detailed analysis of how the vehicle provides an overall level of safety equivalent to or exceeding the overall safety of non-exempted vehicles, including—

(i) A detailed description of how the motor vehicle, if exempted, differs from one that conforms to the standard;

(ii) A detailed description of any safety features that the motor vehicle offers as standard equipment that are not required by the Federal motor vehicle safety standards;

(iii) The results of any tests conducted on the vehicle demonstrating that it fails to meet the standard, expressed as comparative performance levels;

(iv) The results of any tests conducted on the vehicle demonstrating that its overall level of safety exceeds that which is achieved by conformity to the standards.

(v) Other arguments that the overall level of safety of the vehicle equals or exceeds the level of safety of non-exempted vehicles.

(2) Substantiation that compliance would prevent the sale of the vehicle.

(3) A statement whether, at the end of the exemption period, the manufacturer intends to comply with the standard.

(4) A statement that not more than 2,500 exempted vehicles will be sold in the United States in any 12-month period for which an exemption may be granted pursuant to this paragraph. A petition for renewal of any exemption shall also include the total number of exempted vehicles sold in the United States under the existing exemption.

§ 555.7 Processing of petitions.

(a) The NHTSA publishes in the *Federal Register*, affording opportunity for comment, a notice of each petition containing the information required by this part. However, if the NHTSA finds that a petition does not contain the information required by this part, it so informs the petitioner, pointing out the areas of insufficiency and stating that the petition will not receive further consideration until the required information is submitted.

(b) No public hearing, argument or other formal proceeding is held directly on a petition filed under this part before its disposition under this section.

(c) Any interested person may, upon written request, appear informally before an appropriate official of the NHTSA to discuss a petition for

exemption or the action taken in response to a petition.

(d) If the Administrator determines that the petition does not contain adequate justification, he denies it and notifies the petitioner in writing. He also publishes in the *Federal Register* a notice of the denial and the reasons for it.

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(b) A temporary exemption from a standard granted on a basis other than substantial economic hardship terminates according to its terms but not later than 2 years after the date of issuance unless terminated sooner pursuant to subparagraph (d).

(c) Any interested person may petition for the termination or modification of an exemption granted under this part. The petition will be processed in accordance with the procedures of Part 552 of this chapter.

(d) The Administrator terminates or modifies a temporary exemption if he determines that—

(1) The temporary exemption is no longer consistent with the public interest and the objectives of the Act; or

(2) The temporary exemption was granted on the basis of false, fraudulent, or misleading representations or information.

(e) If a petition for renewal of a temporary exemption that meets the requirements of § 555.5 has been filed not later than 60 days before the termination date of an exemption, the exemption does not terminate until the Administrator grants or denies the petition for renewal.

(f) The Administrator publishes in the *Federal Register* a notice of

(i) a petition for termination or modification of an exemption and the action taken in response to it; and

(ii) any termination or modification of an exemption pursuant to the Administrator's own motion.

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(b) Affix securely to the windshield or side window of each exempted vehicle a label in the English language containing the statement required by paragraph (c) (1) or (c) (2) of this section, and with the words "SHOWN ABOVE" omitted.

(c) Meet all applicable requirements of Part 567 of this chapter, except that—

(1) Instead of the statement required by § 567.4(g) (5) of this Chapter, the following statement shall appear: "THIS VEHICLE CONFORMS TO ALL APPLICABLE FEDERAL MOTOR VEHICLE SAFETY [AND BUMPER] STANDARDS IN EFFECT ON THE DATE OF MANUFACTURE SHOWN ABOVE EXCEPT FOR STANDARDS NOS. [Listing the standards by number and title for which an exemption has been granted]. EXEMPTED PURSUANT TO NHTSA EXEMPTION NO. _____."

(2) Instead of the statement required by § 567.5(c) (7) (iii), the following statement shall appear: THIS VEHICLE CONFORMS TO ALL APPLICABLE FEDERAL MOTOR VEHICLE SAFETY [AND BUMPER] STANDARDS IN EFFECT IN [Month, Year] EXCEPT FOR STANDARD NOS. [Listing the standards by number and title for which an exemption has been granted]. EXEMPTED PURSUANT TO NHTSA EXEMPTION NO. _____

§ 555.10 Availability for public inspection.

(a) Information relevant to a petition under this part, including the petition and supporting data, memoranda of informal meetings with the petitioner or any other interested person, and the grant or denial of the petition, is available for public inspection, except as specified in paragraph (b) of this section, in the Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Copies of available information may be obtained, as provided in Part 7 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 7).

[(b) Except for the release of confidential information authorized by Part 512 of this Chapter, information made available for inspection under paragraph (a) shall not include materials not relevant to the petition for which confidentiality is requested and granted in accordance with sections 112, 113, and 158 of the Act (15 U.S.C. 1401, 1402, and 1418) and section 552(b) of Title 5 of the United States Code. (46 F.R. 2063—January 8, 1981. Effective: April 9, 1981)]

**38 F.R. 2693
January 29, 1973**

§ 555.10 Availability for public inspection.

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**38 F.R. 2693
January 29, 1973**

PREAMBLE TO PART 556—EXEMPTION FOR INCONSEQUENTIAL DEFECT OR NONCOMPLIANCE

(Docket No. 75-21; Notice 2)

This notice amends Title 49 of the Code of Federal Regulations to add Part 556, "Exemption for Inconsequential Defect or Noncompliance," which establishes procedures for petitioning by manufacturers for exemption from notice and remedy requirements of the National Traffic and Motor Vehicle Safety Act on grounds that a defect or noncompliance is inconsequential as it relates to motor vehicle safety.

A notice of proposed rulemaking to establish Part 556 was published in the *FEDERAL REGISTER* on August 25, 1975 (40 FR 37047). Fifteen comments were received from vehicle and equipment manufacturers and trade associations representing these groups. The National Motor Vehicle Safety Advisory Council did not take a position on the proposal. The Vehicle Equipment Safety Commission did not comment on the proposal.

The NHTSA is adding Part 556 to Title 49 to establish procedures that will implement the legislative mandate of section 157 of the National Traffic and Motor Vehicle Safety Act (the Act) (as amended by Pub. L. 93-492, 88 Stat. 1470, October 27, 1974; 15 U.S.C. 1417). The new regulation prescribes procedures for the submission of petitions, including filing time and petition content. Other provisions are included concerning the processing and disposition of petitions, meetings to present oral comments, and the rescission of exemptions.

Comments on the proposal were in agreement with the intent of the regulation. Several comments suggested modification of certain sections with respect to content and language.

International Harvester (IH) requested that the proposed language of sections 556.1 and 556.2 of Part 556 be modified to ensure that the re-

quirements for notification and remedy would be suspended pending a determination on the inconsequentiality petition.

It is the agency's view that the modifications recommended by IH are unnecessary. When the agency initially determines that a defect or noncompliance has occurred, it notifies the manufacturer who is provided a 30-day period in which to submit an inconsequentiality petition. The manufacturer's duty to notify and remedy does not become mandatory until the agency makes two final determinations: the first, that a noncompliance or defect in fact exists, and the second, that it is not inconsequential. These determinations are not made until after receipt of submissions, written and oral, from the manufacturer and other interested parties. Under Part 556, the agency would dispose of the petition for inconsequentiality concurrently with its final determination of a defect or noncompliance. Therefore, the notification and remedy provisions would never become effective until there has been a final determination of the petition for inconsequentiality.

When a manufacturer determines that a defect or noncompliance exists, on the other hand, he will be exempted temporarily from notice and remedy requirements until the NHTSA finally disposes of his petition for exemption. The agency interprets the requirement in the proposed amendment to Part 577 that manufacturers provide notification of a defect or noncompliance unless exempted by the Administrator pursuant to section 157 of the Act to mean that notification need not occur until after the disposition of an inconsequentiality petition.

Association Peugeot-Renault suggested that the phrase "has determined" in the first sentence of paragraph 556.4(a) be changed to "has finally

determined" for purposes of clarification. There is no distinction between these phrases with respect to manufacturer-initiated determinations of a defect or noncompliance. The distinction becomes meaningful only when the NHTSA makes an initial determination as opposed to a final determination. Therefore, the agency has decided to retain the language "has determined," since it is not ambiguous, and it is consistent with Parts 573 and 577.

Comments were received from American Motors Corporation (AMC), Volkswagen, Chrysler, General Motors (GM), and the Motor Vehicle Manufacturers Association (MVMA) requesting clarification of the use of the term "defect" in the regulation. These comments expressed the opinion that the legislative history of section 157 of the Act as well as other provisions of the Act clearly indicate that any defect requiring action must be related to motor vehicle safety.

The NHTSA agrees that the Act and its underlying history are directed to manufacturer responsibility for defects that relate to motor vehicle safety. In view of possible ambiguity in the use of the word "defect" alone, the qualifying words "related to motor vehicle safety" have been added throughout the regulation where appropriate.

The agency is modifying paragraph (b) (4) of section 556.4 to require submission of the number of motor vehicles or replacement equipment and the period in which they were produced for which an exemption is sought. This information is considered necessary and falls within the ambit of the proposal.

Several commenters suggested that the agency delete paragraph (c) of section 556.4, because 18 U.S.C. 1001 applies to all willful submissions of false information to any department or agency from any source, thereby making paragraph (c) redundant. The agency agrees that the reference to this criminal penalty is not necessary to the purpose of the regulation, and it is, therefore, deleted.

Many commenters requested a change in paragraph (d) of section 556.4. AMC, Chrysler, GM, and the MVMA all requested that the 15-day time limit on petitions be deleted. They argued that manufacturers should be able to petition

within a reasonable time after a defect is determined to exist as allowed in Part 577. This may not occur until after the final determination is made by the NHTSA.

The agency has concluded that the modification described above would unduly delay remedy of defects and noncompliances, as well as enforcement and compliance actions. The requested modification would allow a manufacturer to proceed through an agency-initiated defect determination, and then, within a reasonable time, petition for a determination of inconsequentiality. This serial procedure would be time-consuming and redundant, allowing potentially dangerous vehicles to go unremedied longer than necessary. It is true that Part 577 specifies notification of the public within a "reasonable time" (conforming to the requirements of § 153(b) (1) of the Act) in the case of a manufacturer's determination. Reasonable time is appropriate in the context of Part 577, since notification might need to be made to thousands of individuals. Part 556 requires only the filing of a single petition and, therefore, should be subject to a time limitation.

White Motor Company and IH proposed that the NHTSA define 15 days to mean 15 working days. Association Peugeot-Renault and Uniroyal, on the other hand, suggested that the agency extend the time limit to 30 days. Some commenters pointed out that the proposed requirement of receipt of the petition within 15 days might leave the manufacturer with only four working days to conduct tests and draft the petitions. After careful consideration, the NHTSA has decided to require petitions to be submitted within 30 days. This provides a reasonable limit on the time for filing a petition for exemption. Moreover, it assures that all submissions will be received prior to the meeting authorized under section 152(a) of the Act.

The MVMA and GM suggested that the language in paragraph (3) (i) of section 556.5 be changed for clarity. They argued that the wording of that paragraph indicates that a public meeting prior to the disposition of a petition for exemption is mandatory. Their modification would require someone to request a meeting before the NHTSA would establish a time and place for it.

PREAMBLE TO PART 556—EXEMPTION FOR INCONSEQUENTIAL DEFECT OR NONCOMPLIANCE

(Docket No. 75-21; Notice 2)

This notice amends Title 49 of the Code of Federal Regulations to add Part 556, "Exemption for Inconsequential Defect or Noncompliance," which establishes procedures for petitioning by manufacturers for exemption from notice and remedy requirements of the National Traffic and Motor Vehicle Safety Act on grounds that a defect or noncompliance is inconsequential as it relates to motor vehicle safety.

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The NHTSA is adding Part 556 to Title 49 to establish procedures that will implement the legislative mandate of section 157 of the National Traffic and Motor Vehicle Safety Act (the Act) (as amended by Pub. L. 93-492, 88 Stat. 1470, October 27, 1974; 15 U.S.C. 1417). The new regulation prescribes procedures for the submission of petitions, including filing time and petition content. Other provisions are included concerning the processing and disposition of petitions, meetings to present oral comments, and the rescission of exemptions.

Comments on the proposal were in agreement with the intent of the regulation. Several comments suggested modification of certain sections with respect to content and language.

International Harvester (IH) requested that the proposed language of sections 556.1 and 556.2 of Part 556 be modified to ensure that the re-

quirements for notification and remedy would be suspended pending a determination on the inconsequentiality petition.

It is the agency's view that the modifications recommended by IH are unnecessary. When the agency initially determines that a defect or noncompliance has occurred, it notifies the manufacturer who is provided a 30-day period in which to submit an inconsequentiality petition. The manufacturer's duty to notify and remedy does not become mandatory until the agency makes two final determinations: the first, that a noncompliance or defect in fact exists, and the second, that it is not inconsequential. These determinations are not made until after receipt of submissions, written and oral, from the manufacturer and other interested parties. Under Part 556, the agency would dispose of the petition for inconsequentiality concurrently with its final determination of a defect or noncompliance. Therefore, the notification and remedy provisions would never become effective until there has been a final determination of the petition for inconsequentiality.

When a manufacturer determines that a defect or noncompliance exists, on the other hand, he will be exempted temporarily from notice and remedy requirements until the NHTSA finally disposes of his petition for exemption. The agency interprets the requirement in the proposed amendment to Part 577 that manufacturers provide notification of a defect or noncompliance unless exempted by the Administrator pursuant to section 157 of the Act to mean that notification need not occur until after the disposition of an inconsequentiality petition.

Association Peugeot-Renault suggested that the phrase "has determined" in the first sentence of paragraph 556.4(a) be changed to "has finally

determined” for purposes of clarification. There is no distinction between these phrases with respect to manufacturer-initiated determinations of a defect or noncompliance. The distinction becomes meaningful only when the NHTSA makes an initial determination as opposed to a final determination. Therefore, the agency has decided to retain the language “has determined,” since it is not ambiguous, and it is consistent with Parts 573 and 577.

Comments were received from American Motors Corporation (AMC), Volkswagen, Chrysler, General Motors (GM), and the Motor Vehicle Manufacturers Association (MVMA) requesting clarification of the use of the term “defect” in the regulation. These comments expressed the opinion that the legislative history of section 157 of the Act as well as other provisions of the Act clearly indicate that any defect requiring action must be related to motor vehicle safety.

The NHTSA agrees that the Act and its underlying history are directed to manufacturer responsibility for defects that relate to motor vehicle safety. In view of possible ambiguity in the use of the word “defect” alone, the qualifying words “related to motor vehicle safety” have been added throughout the regulation where appropriate.

The agency is modifying paragraph (b)(4) of section 556.4 to require submission of the number of motor vehicles or replacement equipment and the period in which they were produced for which an exemption is sought. This information is considered necessary and falls within the ambit of the proposal.

Several commenters suggested that the agency delete paragraph (c) of section 556.4, because 18 U.S.C. 1001 applies to all willful submissions of false information to any department or agency from any source, thereby making paragraph (c) redundant. The agency agrees that the reference to this criminal penalty is not necessary to the purpose of the regulation, and it is, therefore, deleted.

Many commenters requested a change in paragraph (d) of section 556.4. AMC, Chrysler, GM, and the MVMA all requested that the 15-day time limit on petitions be deleted. They argued that manufacturers should be able to petition

within a reasonable time after a defect is determined to exist as allowed in Part 577. This may not occur until after the final determination is made by the NHTSA.

The agency has concluded that the modification described above would unduly delay remedy of defects and noncompliances, as well as enforcement and compliance actions. The requested modification would allow a manufacturer to proceed through an agency-initiated defect determination, and then, within a reasonable time, petition for a determination of inconsequentiality. This serial procedure would be time-consuming and redundant, allowing potentially dangerous vehicles to go unremedied longer than necessary. It is true that Part 577 specifies notification of the public within a “reasonable time” (conforming to the requirements of § 153(b)(1) of the Act) in the case of a manufacturer’s determination. Reasonable time is appropriate in the context of Part 577, since notification might need to be made to thousands of individuals. Part 556 requires only the filing of a single petition and, therefore, should be subject to a time limitation.

White Motor Company and IH proposed that the NHTSA define 15 days to mean 15 working days. Association Peugeot-Renault and Uniroyal, on the other hand, suggested that the agency extend the time limit to 30 days. Some commenters pointed out that the proposed requirement of receipt of the petition within 15 days might leave the manufacturer with only four working days to conduct tests and draft the petitions. After careful consideration, the NHTSA has decided to require petitions to be submitted within 30 days. This provides a reasonable limit on the time for filing a petition for exemption. Moreover, it assures that all submissions will be received prior to the meeting authorized under section 152(a) of the Act.

The MVMA and GM suggested that the language in paragraph (3)(i) of section 556.5 be changed for clarity. They argued that the wording of that paragraph indicates that a public meeting prior to the disposition of a petition for exemption is mandatory. Their modification would require someone to request a meeting before the NHTSA would establish a time and place for it.

This aspect of paragraph (3) (i) was proposed to allow the agency to publish the time and location of a meeting concurrently with the publication in the FEDERAL REGISTER of the manufacturer's petition for an inconsequentiality determination. Since issuance of the proposal, the agency has had more experience with section 157 petitions. To date meetings have not been required for disposition of these petitions. Therefore, the final rule incorporates the language suggested by the MVMA and GM to establish that public meetings will be held "upon request of the petitioner or interested persons."

Many commenters requested that paragraph (a) (3) (ii) of section 556.5 be amended to allow the manufacturer to choose to have a meeting on the inconsequentiality petition that is separate from a meeting held pursuant to section 152(a) of the Act. These commenters believe that prejudice may result if they are required to argue simultaneously that no defect or noncompliance exists and that any defect or noncompliance that may be found is inconsequential.

The language of section 556.4 paragraph (d) was intended to ensure that a petition for inconsequentiality would not constitute a concession of the existence of a defect. Consideration of the petition at the section 152(a) meeting is analogous to the consideration of more formal alternative pleadings in other legal forums. Separate hearings or meetings are not held merely because there exist two alternative defenses. Therefore, the agency does not agree that the consolidation of the two arguments would result in prejudice. Accordingly, the request for separate meetings is denied.

Several comments were made concerning a modification of section 556.6 to require formal adversarial hearings. The meetings proposed by the agency are fact-finding, not adversarial. The purpose of the meetings is to yield further information to facilitate the decision-making process. The informal meeting process is less time-consuming than adversarial proceedings and it yields equally reliable factual information. Further, Congress has authorized the agency in section 157 of the Act to proceed informally. The agency will retain, therefore, the informal meeting procedure.

Association Peugeot-Renault would delete the last sentence in paragraph (b) of section 556.6. They believed that a decision made by the NHTSA on an inconsequentiality petition should be based entirely upon matters covered at a meeting. The agency does not agree. These meetings serve to gather information. They are a supplement to other sources of information utilized by the NHTSA. Decisions must be based upon thorough consideration of all information received from all sources.

The NHTSA in deciding section 157 petitions has afforded an opportunity for manufacturers to appeal the denial of an exemption based upon inconsequentiality of defect or noncompliance. The agency intends to continue this process and, in addition, to allow any interested person to appeal the grant or denial of an exemption by submitting written data, views, or arguments. To reflect this policy, the agency modifies the proposed section 556.7 to allow an appeal procedure within the agency.

Several commenters requested minor modifications of section 556.8. GM suggested that the agency publish guidelines to establish procedures for rescission of an exemption. The agency concludes that the section provides sufficient guidelines for the rescission process. No rescission will be made prior to the receipt of new data and notice and opportunity to comment thereon. In the unlikely circumstance that procedure proves to be insufficient, future opportunity exists for a revision of the procedures. A minor modification of the wording of section 556.8 is made for clarity.

AMC, MVMA, and GM suggested that the agency amend section 556.9 to state that confidential material would not be subject to public inspection. The agency has determined that this modification is unnecessary. Section 112 paragraph (e) of the Act defines the limits for the release of confidential material. A repetition of this restriction in Part 556 would be redundant.

In accordance with recently enunciated Department of Transportation policy encouraging adequate analysis of the consequences of regulatory action (41 FR 16200; April 16, 1976), the agency herewith summarizes its evaluation of the eco-

Effective: March 9, 1977

conomic and other consequences of this action on the public and private sectors, including possible loss of safety benefits. Since this part is merely procedural and fulfills the mandate of section 157 of the Act, there will be at most minimal costs associated with its implementation and no loss of safety benefits.

In consideration of the foregoing, Title 49, Code of Federal Regulations, is amended by the addition of a new Part 556 titled "Exemption for Inconsequential Defect or Noncompliance."

Effective date: March 9, 1977.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegation of authority at 49 CFR 1.50.)

Issued on January 31, 1977.

John W. Snow
Administrator

42 F.R. 7145
February 7, 1977

This aspect of paragraph (3) (i) was proposed to allow the agency to publish the time and location of a meeting concurrently with the publication in the FEDERAL REGISTER of the manufacturer's petition for an inconsequentiality determination. Since issuance of the proposal, the agency has had more experience with section 157 petitions. To date meetings have not been required for disposition of these petitions. Therefore, the final rule incorporates the language suggested by the MVMA and GM to establish that public meetings will be held "upon request of the petitioner or interested persons."

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The NHTSA in deciding section 157 petitions has afforded an opportunity for manufacturers to appeal the denial of an exemption based upon inconsequentiality of defect or noncompliance. The agency intends to continue this process and, in addition, to allow any interested person to appeal the grant or denial of an exemption by submitting written data, views, or arguments. To reflect this policy, the agency modifies the proposed section 556.7 to allow an appeal procedure within the agency.

Several commenters requested minor modifications of section 556.8. GM suggested that the agency publish guidelines to establish procedures for rescission of an exemption. The agency concludes that the section provides sufficient guidelines for the rescission process. No rescission will be made prior to the receipt of new data and notice and opportunity to comment thereon. In the unlikely circumstance that procedure proves to be insufficient, future opportunity exists for a revision of the procedures. A minor modification of the wording of section 556.8 is made for clarity.

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conomic and other consequences of this action on the public and private sectors, including possible loss of safety benefits. Since this part is merely procedural and fulfills the mandate of section 157 of the Act, there will be at most minimal costs associated with its implementation and no loss of safety benefits.

In consideration of the foregoing, Title 49, Code of Federal Regulations, is amended by the addition of a new Part 556 titled "Exemption for Inconsequential Defect or Noncompliance."

Effective date: March 9, 1977.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegation of authority at 49 CFR 1.50.)

Issued on January 31, 1977.

John W. Snow
Administrator

42 F.R. 7145
February 7, 1977

PART 556—EXEMPTION FOR INCONSEQUENTIAL DEFECT OR NONCOMPLIANCE

Sec.

556.1 Scope.

556.2 Purpose.

556.3 Application.

556.4 Petition for exemption.

556.5 Processing of petition.

556.6 Meetings.

556.7 Disposition of petition.

556.8 Rescission of exemption.

556.9 Public inspection of relevant information.

AUTHORITY: Sec. 157, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417), delegation of authority at 49 CFR 1.50.

§ 556.1 Scope.

This part sets forth procedures, pursuant to section 157 of the Act, for exempting manufacturers of motor vehicles and replacement equipment from the Act's notice and remedy requirements when a defect or noncompliance is determined to be inconsequential as it relates to motor vehicle safety.

§ 556.2 Purpose.

The purpose of this part is to enable manufacturers of motor vehicles and replacement equipment to petition the NHTSA for exemption from the notification and remedy requirements of the Act due to the inconsequentiality of the defect or noncompliance as it relates to motor vehicle safety, and to give all interested persons an opportunity for presentation of data, views, and arguments on the issue of inconsequentiality.

§ 556.3 Application.

This part applies to manufacturers of motor vehicles and replacement equipment.

§ 556.4 Petition for exemption.

(a) A manufacturer who has determined the existence, in a motor vehicle or item of replace-

ment equipment that he produces, of a defect related to motor vehicle safety or a noncompliance with an applicable Federal motor vehicle safety standard, or who has received notice of an initial determination by the NHTSA of the existence of a defect related to motor vehicle safety or a noncompliance, may petition for exemption from the Act's notification and remedy requirements on the grounds that the defect or noncompliance is inconsequential as it relates to motor vehicle safety.

(b) Each petition submitted under this part shall—

(1) Be written in the English language;

(2) Be submitted in three copies to: Administrator, National Highway Traffic Safety Administration, Washington, D.C. 20590;

(3) State the full name and address of the applicant, the nature of its organization (e.g., individual, partnership, or corporation) and the name of the State or country under the laws of which it is organized.

(4) Describe the motor vehicle or item of replacement equipment, including the number involved and the period of production, and the defect or noncompliance concerning which an exemption is sought; and

(5) Set forth all data, views, and arguments of the petitioner supporting his petition.

(c) In the case of defects related to motor vehicle safety or noncompliances determined to exist by a manufacturer, petitions under this part must be submitted not later than 30 days after such determination. In the case of defects related to motor vehicle safety or noncompliances initially determined to exist by the NHTSA, petitions must be submitted not later than 30 days after notification of the determination has been received by the manufacturer. Such a petition will not constitute a concession by the manufac-

turer of, nor will it be considered relevant to, the existence of a defect related to motor vehicle safety or a nonconformity.

§ 556.5 Processing of petition.

(a) The NHTSA publishes a notice of each petition in the FEDERAL REGISTER. Such notice includes:

(1) A brief summary of the petition;

(2) A statement of the availability of the petition and other relevant information for public inspection; and

(3)(i) In the case of a defect related to motor vehicle safety or a noncompliance determined to exist by the manufacturer, an invitation to interested persons to submit written data, views, and arguments concerning the petition, and, upon request by the petitioner or interested persons, a statement of the time and place of a public meeting at which such materials may be presented orally if any person so desires.

(ii) In the case of a defect related to motor vehicle safety or a noncompliance initially determined to exist by the NHTSA, an invitation to interested persons to submit written data, views, and arguments concerning the petition or to submit such data, views, and arguments orally at the meeting held pursuant to section 152(a) of the Act following the initial determination, or at a separate meeting if deemed appropriate by the agency.

§ 556.6 Meetings.

(a) At a meeting held under this part, any interested person may make oral (as well as written) presentations of data, views, and arguments on the question of whether the defect or noncompliance described in the FEDERAL REGISTER notice is inconsequential as it relates to motor vehicle safety.

(b) Sections 556 and 557 of Title 5, United States Code, do not apply to any meeting held under this part. Unless otherwise specified, any meeting held under this part is an informal, nonadversary, fact-finding proceeding, at which there are no formal pleadings or adverse parties. A decision to grant or deny a petition, after a meeting on such petition, is not necessarily based exclusively on the record of the meeting.

(c) The Administrator designates a representative to conduct any meeting held under this part. The Chief Counsel designates a member of his staff to serve as legal officer at the meeting. A transcript of the proceeding is kept and exhibits may be kept as part of the transcript.

§ 556.7 Disposition of petition.

Notice of either a grant or denial of a petition for exemption from the notice and remedy requirements of the Act based upon the inconsequentiality of a defect or noncompliance is issued to the petitioner and published in the FEDERAL REGISTER. The effect of a grant of a petition is to relieve the manufacturer from any further responsibility to provide notice and remedy of the defect or noncompliance. The effect of a denial is to continue in force, as against a manufacturer, all duties contained in the Act relating to notice and remedy of the defect or noncompliance. Any interested person may appeal the grant or denial of a petition by submitting written data, views, or arguments to the Administrator.

§ 556.8 Rescission of decision.

The Administrator may rescind a grant or denial of an exemption issued under this part any time after the receipt of new data and notice and opportunity for comment thereon, in accordance with § 556.5 and § 556.7.

§ 556.9 Public inspection of relevant information.

Information relevant to a petition under this part, including the petition and supporting data, memoranda of informal meetings with the petitioner or any other interested person concerning the petition, and the notice granting or denying the petition, are available for public inspection in the Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Copies of available information may be obtained in accordance with Part 7 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 7).

42 F.R. 7147
February 7, 1977

PART 556—EXEMPTION FOR INCONSEQUENTIAL DEFECT OR NONCOMPLIANCE

Sec.

556.1 Scope.

556.2 Purpose.

556.3 Application.

556.4 Petition for exemption.

556.5 Processing of petition.

556.6 Meetings.

556.7 Disposition of petition.

556.8 Rescission of exemption.

556.9 Public inspection of relevant information.

AUTHORITY: Sec. 157, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417), delegation of authority at 49 CFR 1.50.

§ 556.1 Scope.

This part sets forth procedures, pursuant to section 157 of the Act, for exempting manufacturers of motor vehicles and replacement equipment from the Act's notice and remedy requirements when a defect or noncompliance is determined to be inconsequential as it relates to motor vehicle safety.

§ 556.2 Purpose.

The purpose of this part is to enable manufacturers of motor vehicles and replacement equipment to petition the NHTSA for exemption from the notification and remedy requirements of the Act due to the inconsequentiality of the defect or noncompliance as it relates to motor vehicle safety, and to give all interested persons an opportunity for presentation of data, views, and arguments on the issue of inconsequentiality.

§ 556.3 Application.

This part applies to manufacturers of motor vehicles and replacement equipment.

§ 556.4 Petition for exemption.

(a) A manufacturer who has determined the existence, in a motor vehicle or item of replace-

ment equipment that he produces, of a defect related to motor vehicle safety or a noncompliance with an applicable Federal motor vehicle safety standard, or who has received notice of an initial determination by the NHTSA of the existence of a defect related to motor vehicle safety or a noncompliance, may petition for exemption from the Act's notification and remedy requirements on the grounds that the defect or noncompliance is inconsequential as it relates to motor vehicle safety.

(b) Each petition submitted under this part shall—

(1) Be written in the English language;

(2) Be submitted in three copies to: Administrator, National Highway Traffic Safety Administration, Washington, D.C. 20590;

(3) State the full name and address of the applicant, the nature of its organization (e.g., individual, partnership, or corporation) and the name of the State or country under the laws of which it is organized.

(4) Describe the motor vehicle or item of replacement equipment, including the number involved and the period of production, and the defect or noncompliance concerning which an exemption is sought; and

(5) Set forth all data, views, and arguments of the petitioner supporting his petition.

(c) In the case of defects related to motor vehicle safety or noncompliances determined to exist by a manufacturer, petitions under this part must be submitted not later than 30 days after such determination. In the case of defects related to motor vehicle safety or noncompliances initially determined to exist by the NHTSA, petitions must be submitted not later than 30 days after notification of the determination has been received by the manufacturer. Such a petition will not constitute a concession by the manufac-

turer of, nor will it be considered relevant to, the existence of a defect related to motor vehicle safety or a nonconformity.

§ 556.5 Processing of petition.

(a) The NHTSA publishes a notice of each petition in the FEDERAL REGISTER. Such notice includes:

(1) A brief summary of the petition;

(2) A statement of the availability of the petition and other relevant information for public inspection; and

(3)(i) In the case of a defect related to motor vehicle safety or a noncompliance determined to exist by the manufacturer, an invitation to interested persons to submit written data, views, and arguments concerning the petition, and, upon request by the petitioner or interested persons, a statement of the time and place of a public meeting at which such materials may be presented orally if any person so desires.

(ii) In the case of a defect related to motor vehicle safety or a noncompliance initially determined to exist by the NHTSA, an invitation to interested persons to submit written data, views, and arguments concerning the petition or to submit such data, views, and arguments orally at the meeting held pursuant to section 152(a) of the Act following the initial determination, or at a separate meeting if deemed appropriate by the agency.

§ 556.6 Meetings.

(a) At a meeting held under this part, any interested person may make oral (as well as written) presentations of data, views, and arguments on the question of whether the defect or noncompliance described in the FEDERAL REGISTER notice is inconsequential as it relates to motor vehicle safety.

(b) Sections 556 and 557 of Title 5, United States Code, do not apply to any meeting held under this part. Unless otherwise specified, any meeting held under this part is an informal, nonadversary, fact-finding proceeding, at which there are no formal pleadings or adverse parties. A decision to grant or deny a petition, after a meeting on such petition, is not necessarily based exclusively on the record of the meeting.

(c) The Administrator designates a representative to conduct any meeting held under this part. The Chief Counsel designates a member of his staff to serve as legal officer at the meeting. A transcript of the proceeding is kept and exhibits may be kept as part of the transcript.

§ 556.7 Disposition of petition.

Notice of either a grant or denial of a petition for exemption from the notice and remedy requirements of the Act based upon the inconsequentiality of a defect or noncompliance is issued to the petitioner and published in the FEDERAL REGISTER. The effect of a grant of a petition is to relieve the manufacturer from any further responsibility to provide notice and remedy of the defect or noncompliance. The effect of a denial is to continue in force, as against a manufacturer, all duties contained in the Act relating to notice and remedy of the defect or noncompliance. Any interested person may appeal the grant or denial of a petition by submitting written data, views, or arguments to the Administrator.

§ 556.8 Rescission of decision.

The Administrator may rescind a grant or denial of an exemption issued under this part any time after the receipt of new data and notice and opportunity for comment thereon, in accordance with § 556.5 and § 556.7.

§ 556.9 Public inspection of relevant information.

Information relevant to a petition under this part, including the petition and supporting data, memoranda of informal meetings with the petitioner or any other interested person concerning the petition, and the notice granting or denying the petition, are available for public inspection in the Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Copies of available information may be obtained in accordance with Part 7 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 7).

42 F.R. 7147
February 7, 1977

PREAMBLE TO PART 557—PETITIONS FOR HEARINGS ON NOTIFICATION AND REMEDY OF DEFECTS

(Docket No. 75-31; Notice 2)

This notice amends Chapter V of Title 49 of the Code of Federal Regulations by the addition of a new Part 557, *Petitions for Hearings on Notification and Remedy of Defects*, governing petitions for hearings on whether or not a manufacturer has reasonably met its obligation to notify owners, dealers, and purchasers of a safety-related defect or noncompliance with a safety standard, or to remedy the defect or noncompliance. The new part also specifies the procedures to be followed in holding such a hearing.

The NHTSA proposed the regulation (40 FR 56926, December 5, 1975) to carry out a statutory provision concerning the hearing. Section 156 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1416) provides that "[u]pon petition of any interested person or on his own motion, the Secretary may hold a hearing in which any interested person (including a manufacturer) may make oral (as well as written) presentations of data, views, and arguments on the question of whether a manufacturer has reasonably met his obligation to notify under section 151 or 152, and to remedy a defect or failure to comply under section 154." Sections 151 and 152 require a manufacturer to notify owners, dealers, and purchasers of a safety-related defect or failure to comply with an applicable Federal motor vehicle safety standard in any motor vehicle or item of equipment manufactured by him. Section 154 requires a manufacturer to remedy without charge such defects or failures to comply. Section 156 also provides that

[i]f the Secretary determines the manufacturer has not reasonably met such obligation, he shall order the manufacturer to take specified action to comply with such obligation; and in addition, the Sec-

retary may take other action authorized by this title.

Five comments were received from private persons, five comments were received from manufacturers and trade associations, and two comments were received from consumer groups; the Consumer Protection Division of the County Manager's Office for Metropolitan Dade County; and the Center for Auto Safety (the Center). The National Motor Vehicle Safety Advisory Council did not take a position on the proposal. The Vehicle Equipment Safety Commission did not comment on the proposal.

Four of the comments received from private persons objected to the institution of hearings as meaningless or a waste of money. The fifth private party supported issuance of the regulation. The four commenters appeared to be unaware of the provision for these hearings mandated by section 156 of the Act, independent of the promulgation of Part 557. The agency does believe that the informal hearing minimizes the expense that will be involved in fulfilling this statutory mandate.

Walker Manufacturing objected that permitting "[a]ny interested person" to file a petition would invite spurious requests whose pursuit would be a waste of time and money. The agency conformed to the statutory language of section 156 that "any interested person" can petition for this hearing, and concludes that a narrowing of the language would be contrary to the intent of Congress in establishing the right.

The Consumer Protection Division for Metropolitan Dade County suggested that the Consumer Product Safety Commission (CPSC) would be a more suitable agency with which to vest this hearing procedure, because of better public identification with its consumer protection role. However, the jurisdiction of the CPSC

under the Consumer Product Safety Act (15 U.S.C. 2051, et seq.) does not include motor vehicles or motor vehicle equipment (15 U.S.C. 2052), and the authority to carry out section 156 is vested in the Department of Transportation.

Firestone Tire and Rubber Company suggested that the hearing procedure could be consolidated with the hearing procedures set forth in Part 552 (*Petitions for Rulemaking, Defect, and Non-compliance Orders*) of NHTSA regulations (49 CFR Part 552). Part 552 addresses the procedures that arise from a request for the initiation of agency action in a rulemaking defect, or non-compliance area. Unlike those situations, Part 557 addresses the different and more limited considerations of an evaluation of an ongoing action undertaken by persons outside the agency. The separation of these functions into different procedural regulations clarifies these distinct functions. Accordingly, the agency declines to adopt the Firestone suggestion.

The Center appeared to misunderstand why minimum qualification requirements were established for hearing petitions. The regulation states that, to be considered as a petition, a document must be written in English, have the word "petition" preceding its text, request a hearing, and contain a brief statement of the alleged failure and a summary of the data, views, or arguments that would be presented at the hearing. Reasonable considerations underlie these minimum qualification requirements. For example, the agency undertakes to respond to such petitions within 60 days, and the agency must be able to recognize a document as a petition if the writer wishes to have it treated as such. This is the basis for requiring that the word "petition" appear. The Center's request that the specifications be relaxed to recognize as petitions filings in Spanish as well as English from the Commonwealth of Puerto Rico and the Canal Zone does not detract from the intent of the qualification requirements, and the final regulation is accordingly modified.

The Center's more basic objection is that persons effectively will not be on notice that a request for a hearing must conform to the requirements of Part 557 to be treated as a petition. While it is true that it must so conform to achieve petition status (entitling it to a reply within 60

days), it is not true that a non-conforming request would not result in the calling of a hearing. Any complaint, request, or series of them, can result in the calling of a hearing on the Administrator's own motion. The Administrator is not precluded from deciding to hold a hearing simply because a person's complaint does not qualify as a petition. Thus, the agency disagrees with the Center's conclusion that Part 557 "denies an owner the right to a hearing unless he or she follows the regulation in every detail."

For this reason, the agency does not consider necessary the Center's request for an amendment of the newly revised Part 557 (dealing with notification of safety-related defects or noncompliances) to include the detailed specifications for the content of a Part 557 petition. It is noted that the agency is unaware of any supplemental submission by the Center to the docket on revision of Part 577, either at the time the comments on that docket were evaluated, or as of this date. With regard to the Center's suggestion that each complainant be advised by return mail to resubmit any request for a hearing in the proper format, it is just this sort of response the agency intends to avoid by its flexible approach.

In a related matter, the Dade County Manager's office believed that a lawyer would be required to draft the petition specified by § 557.4. This is not the case. A normal letter format, preceded by the word "petition" and containing the petitioner's complaint and its reasons for the complaint are all that is required. In response to the point that every complaint should not precipitate a hearing, it is simply noted that the grant of a petition is within the discretion of the Administrator under the statute, as set forth in § 557.6 of the new regulation.

Section 557.6 of the regulation sets forth the factors considered by the Administrator in determining whether to hold a hearing. The factors listed are: the nature of the complaint; the seriousness of the alleged breach of obligation to remedy; the existence of similar complaints; and the ability of the NHTSA to resolve the problem without holding a hearing. The Center considered the first factor (the nature of the complaint) to be meaningless, and suggested its clarification or deletion.

PREAMBLE TO PART 557—PETITIONS FOR HEARINGS ON NOTIFICATION AND REMEDY OF DEFECTS

(Docket No. 75-31; Notice 2)

This notice amends Chapter V of Title 49 of the Code of Federal Regulations by the addition of a new Part 557, *Petitions for Hearings on Notification and Remedy of Defects*, governing petitions for hearings on whether or not a manufacturer has reasonably met its obligation to notify owners, dealers, and purchasers of a safety-related defect or noncompliance with a safety standard, or to remedy the defect or noncompliance. The new part also specifies the procedures to be followed in holding such a hearing.

The NHTSA proposed the regulation (40 FR 56926, December 5, 1975) to carry out a statutory provision concerning the hearing. Section 156 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1416) provides that "[u]pon petition of any interested person or on his own motion, the Secretary may hold a hearing in which any interested person (including a manufacturer) may make oral (as well as written) presentations of data, views, and arguments on the question of whether a manufacturer has reasonably met his obligation to notify under section 151 or 152, and to remedy a defect or failure to comply under section 154." Sections 151 and 152 require a manufacturer to notify owners, dealers, and purchasers of a safety-related defect or failure to comply with an applicable Federal motor vehicle safety standard in any motor vehicle or item of equipment manufactured by him. Section 154 requires a manufacturer to remedy without charge such defects or failures to comply. Section 156 also provides that

[i]f the Secretary determines the manufacturer has not reasonably met such obligation, he shall order the manufacturer to take specified action to comply with such obligation; and in addition, the Sec-

retary may take other action authorized by this title.

Five comments were received from private persons, five comments were received from manufacturers and trade associations, and two comments were received from consumer groups; the Consumer Protection Division of the County Manager's Office for Metropolitan Dade County; and the Center for Auto Safety (the Center). The National Motor Vehicle Safety Advisory Council did not take a position on the proposal. The Vehicle Equipment Safety Commission did not comment on the proposal.

Four of the comments received from private persons objected to the institution of hearings as meaningless or a waste of money. The fifth private party supported issuance of the regulation. The four commenters appeared to be unaware of the provision for these hearings mandated by section 156 of the Act, independent of the promulgation of Part 557. The agency does believe that the informal hearing minimizes the expense that will be involved in fulfilling this statutory mandate.

Walker Manufacturing objected that permitting "[a]ny interested person" to file a petition would invite spurious requests whose pursuit would be a waste of time and money. The agency conformed to the statutory language of section 156 that "any interested person" can petition for this hearing, and concludes that a narrowing of the language would be contrary to the intent of Congress in establishing the right.

The Consumer Protection Division for Metropolitan Dade County suggested that the Consumer Product Safety Commission (CPSC) would be a more suitable agency with which to vest this hearing procedure, because of better public identification with its consumer protection role. However, the jurisdiction of the CPSC

under the Consumer Product Safety Act (15 U.S.C. 2051, et seq.) does not include motor vehicles or motor vehicle equipment (15 U.S.C. 2052), and the authority to carry out section 156 is vested in the Department of Transportation.

Firestone Tire and Rubber Company suggested that the hearing procedure could be consolidated with the hearing procedures set forth in Part 552 (*Petitions for Rulemaking, Defect, and Non-compliance Orders*) of NHTSA regulations (49 CFR Part 552). Part 552 addresses the procedures that arise from a request for the initiation of agency action in a rulemaking defect, or non-compliance area. Unlike those situations, Part 557 addresses the different and more limited considerations of an evaluation of an ongoing action undertaken by persons outside the agency. The separation of these functions into different procedural regulations clarifies these distinct functions. Accordingly, the agency declines to adopt the Firestone suggestion.

The Center appeared to misunderstand why minimum qualification requirements were established for hearing petitions. The regulation states that, to be considered as a petition, a document must be written in English, have the word "petition" preceding its text, request a hearing, and contain a brief statement of the alleged failure and a summary of the data, views, or arguments that would be presented at the hearing. Reasonable considerations underlie these minimum qualification requirements. For example, the agency undertakes to respond to such petitions within 60 days, and the agency must be able to recognize a document as a petition if the writer wishes to have it treated as such. This is the basis for requiring that the word "petition" appear. The Center's request that the specifications be relaxed to recognize as petitions filings in Spanish as well as English from the Commonwealth of Puerto Rico and the Canal Zone does not detract from the intent of the qualification requirements, and the final regulation is accordingly modified.

The Center's more basic objection is that persons effectively will not be on notice that a request for a hearing must conform to the requirements of Part 557 to be treated as a petition. While it is true that it must so conform to achieve petition status (entitling it to a reply within 60

days), it is not true that a non-conforming request would not result in the calling of a hearing. Any complaint, request, or series of them, can result in the calling of a hearing on the Administrator's own motion. The Administrator is not precluded from deciding to hold a hearing simply because a person's complaint does not qualify as a petition. Thus, the agency disagrees with the Center's conclusion that Part 557 "denies an owner the right to a hearing unless he or she follows the regulation in every detail."

For this reason, the agency does not consider necessary the Center's request for an amendment of the newly revised Part 557 (dealing with notification of safety-related defects or noncompliances) to include the detailed specifications for the content of a Part 557 petition. It is noted that the agency is unaware of any supplemental submission by the Center to the docket on revision of Part 577, either at the time the comments on that docket were evaluated, or as of this date. With regard to the Center's suggestion that each complainant be advised by return mail to re-submit any request for a hearing in the proper format, it is just this sort of response the agency intends to avoid by its flexible approach.

In a related matter, the Dade County Manager's office believed that a lawyer would be required to draft the petition specified by § 557.4. This is not the case. A normal letter format, preceded by the word "petition" and containing the petitioner's complaint and its reasons for the complaint are all that is required. In response to the point that every complaint should not precipitate a hearing, it is simply noted that the grant of a petition is within the discretion of the Administrator under the statute, as set forth in § 557.6 of the new regulation.

Section 557.6 of the regulation sets forth the factors considered by the Administrator in determining whether to hold a hearing. The factors listed are: the nature of the complaint; the seriousness of the alleged breach of obligation to remedy; the existence of similar complaints; and the ability of the NHTSA to resolve the problem without holding a hearing. The Center considered the first factor (the nature of the complaint) to be meaningless, and suggested its clarification or deletion.

Stating the nature of the complaint is deemed necessary to allow NHTSA to judge whether the issues of fact or opinion are of a type that could be resolved by a hearing. In those cases where facts or engineering considerations are not at issue and only a policy decision remains to be made, the Administrator could make his finding without holding a hearing. A related factor (listed as § 557.6(a)(4)) is the NHTSA's ability to resolve a particular complaint without a hearing. Such a case would be when factual issues are in dispute, but the facts are already gathered. The agency therefore disagrees with the Center's assessment of § 557.6(a)(1) and declines to modify it or delete it.

The Center viewed the second factor listed in § 557.6 (the seriousness of the alleged breach of obligation to remedy) as impermissibly vague also. The Center's submission implies that only two types of "breach of obligation" exist: failure to repair and refusal to remedy without charge. In fact, every conceivable type of "alleged breach of obligation" exists, all with differing levels of seriousness. For example, in a recall to replace seat belts, an owner could object that a shortage of red seat belts resulted in installation of black seat belts in place of what had been originally fitted. Another example would be a failure of a notification letter to list the correct address of the dealer that will undertake a particular repair. The agency needs to exercise its discretion in such cases to decide whether the gravity of the objection merits a public hearing.

The Center also argued that § 557.6(4) (the ability of the NHTSA to resolve a problem without holding a hearing) constitutes an impermissible "escape hatch" from agency responsibilities. This comment ignores the language of the Act. Section 156 states that the Secretary "may hold a hearing," a statutory grant of discretion now properly reflected in the implementing regulation, and intended to expedite the agency's decisions in the public interest, not avoid them.

The Recreation Vehicle Industry Association (RVIA) requested that the information presented to the NHTSA in accordance with Part 573 (Defect Reports) be listed as a specific factor to be considered in deciding whether to hold a public hearing. The RVIA appears to be re-

questing that a particular body of information be singled out for review in reaching the decision. Of course, all information related to the case will enter into the decision, but the agency has sought to list in § 557.6 factors other than the information itself that would enter into the decision whether or not a hearing is necessary. This decision is separate from the decision of the adequacy of the notification and remedy itself. For this reason, the RVIA suggestion is not adopted.

The RVIA asked that a manufacturer be advised to the receipt of a petition and its eventual disposition. American Motors Corporation (AMC) also requested notification of receipt. The agency considers these requests reasonable, and will provide in its administrative practices for a copy of the petition acknowledgment and decision letters to be sent to the manufacturer involved.

Section 557.6 provides that the Administrator shall grant or deny the petition in time to notify the petitioner within 60 days of receipt of the petition. The Center argued for a 30-day limit, arguing that a longer period would necessarily have serious safety consequences in every case. The agency does not agree with this view. First, the decision on whether or not to hold a hearing is not the fundamental question of whether or not the manufacturer has taken the steps required of it by the statute. Also, the significance of the alleged failure to adequately meet responsibilities will vary from case to case, justifying differing periods of time in which to reach a decision. Finally, the 60-day period is a maximum, and a decision in situations in which significant safety gains are made by quick action can be made sooner. For these reasons, the Center's suggestion is not adopted.

The Center also believed that immediate publication of the reasons for denial of a petition would be necessary and desirable. The agency knows no reason why this would be the case, but rather concludes that notice to the petitioner within the allotted period is the significant step in the case of a denial. The publication only serves as a record function. Experience with a similar publication schedule for denial of rule-making petitions has been satisfactory.

The Center further suggested that all hearings be conducted within 30 days of the decision to grant a hearing, and that a final decision on the adequacy of notification or remedy be made within 30 days of the hearing. The agency intends to schedule hearings within a reasonable time after the petition is granted, but is unable to assure that a hearing can always be held within a 30-day period. As for the request that a decision be reached within 30 days of the hearing, the agency relies on information other than that presented at the hearing and is not able to state unequivocally that the hearing will produce the information necessary to reach a decision within 30 days of holding the hearing. Accordingly, the Center's suggestions are not adopted.

Section 557.7 of the regulation sets forth the nature of the public hearing that is contemplated by the regulation. The section provides for submission of views orally or in writing, the maintenance of a transcript and exhibits, and the presence in some cases of a legal officer. The RVIA, AMC, and International Harvester Company (IH) asked that the informal non-adversarial hearings be revised to permit cross-examination of those who appear by those who disagree with them. IH also asked that, upon agreement of the petitioner and the manufacturer involved, the hearing be modified to conform to the adjudicatory specifications of sections 556 and 557 of the Administrative Procedures Act.

The agency will take into consideration these requests for possible future action. At this time, the NHTSA wishes to conform its regulation to the scope expressed in the proposal. The matter of upgrading hearings to a more adversarial level will be treated therefore at a later date. With regard to IH's request for the opportunity to further develop views on newly developed material, the agency will accept written supplemental views for attachment to the transcript of the hearing. Revision of the regulation to provide for this practice is not necessary.

The RVIA concluded its comments with the recommendation that, in the event of a finding that a manufacturer has not reasonably met its notification and remedy obligations, the finding be accompanied by a statement of the grounds upon which the Administrator based his deter-

mination. The agency does not contemplate the issuance of such a finding without stating its reasons, and therefore concludes that its contemplated actions will conform to the RVIA recommendation.

In accordance with Department of Transportation policy encouraging adequate analysis of the consequences of regulatory action (41 FR 16200, April 16, 1976), the agency herewith summarizes its evaluation of the economic and other consequences of this action on the public and private sectors, including possible loss of safety benefits. In this case, the new regulation merely establishes procedures to carry out the mandate of section 156 of the Act to provide for a possible hearing on the adequacy of notification and remedy in the case where any interested person requests such a hearing. The informal nature of the hearing should have minimal costs of those, including manufacturers, who participate. While minimum requirements for petitioning might result in some increase in time for assessing the adequacy of notification and remedy in some cases, it is believed that any consequent effect on highway safety was contemplated by Congress in providing for the hearings.

In consideration of the foregoing, a new Part 557, *Petitions for Hearings on Notification and Remedy of Defects*, is added to Title 49 of the Code of Federal Regulations, as set forth below.

Effective date: January 31, 1977. Because the regulation is procedural and does not create a burden upon any regulated person, its found for good cause shown that an effective date earlier than 180 days following issuance is in the public interest.

(Sec. 9, Pub. 89-670, 80 Stat. 931 (49 U.S.C. 1657); Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); Sec. 156, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1416); delegation of authority at 49 CFR 1.50)

Issued on December 22, 1976.

John W. Snow
Administrator

41 F.R. 56810

December 30, 1976

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Issued on December 22, 1976.

John W. Snow
Administrator

41 F.R. 56810
December 30, 1976

PART 557—PETITIONS FOR HEARINGS ON NOTIFICATION AND REMEDY OF DEFECTS

Sec.

557.1 Scope.

557.2 Purpose.

557.3 General.

557.4 Requirements for petition.

557.5 Improperly filed petitions.

557.6 Determination whether to hold a public hearing.

557.7 Public hearing.

557.8 Determination of manufacturer's obligation.

§ 557.1 Scope.

This part establishes procedures under section 156 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (88 Stat. 1470, 15 U.S.C. 1416), for the submission and disposition of petitions filed by interested persons for hearings on the question of whether a manufacturer has reasonably met his obligation to notify owners, purchasers, and dealers of a safety-related defect or failure to comply with a Federal motor vehicle safety standard, or to remedy such defect or failure to comply. This part also establishes procedures for holding a hearing on these questions.

§ 557.2 Purpose.

The purpose of this part is to enable the National Highway Traffic Safety Administration to identify and respond on a timely basis to petitions for hearings on whether a manufacturer has reasonably met his obligation to notify or remedy, and to establish the procedures for such hearings.

§ 557.3 General.

Any interested person may file with the Administrator a petition requesting him to hold a hearing on—

(a) Whether a manufacturer has reasonably met his obligation to notify owners, purchasers, and dealers of a safety-related defect in any motor vehicle or item of replacement equipment manufactured by him;

(b) Whether a manufacturer has reasonably met his obligation to notify owners, purchasers, and dealers of a failure to comply with an applicable Federal motor vehicle safety standard in any motor vehicle or item of replacement equipment manufactured by him;

(c) Whether the manufacturer has reasonably met his obligation to remedy a safety-related defect in any motor vehicle or item of replacement equipment manufactured by him; or

(d) Whether the manufacturer has reasonably met his obligation to remedy a failure to comply with an applicable Federal motor vehicle safety standard in any motor vehicle or item of replacement equipment manufactured by him.

§ 557.4 Requirements for petition.

A petition filed under this part should be addressed and submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590. Each petition filed under this part must—

(a) Be written in the English or Spanish language;

(b) Have, preceding its text, the word "Petition";

(c) Contain a brief statement concerning the alleged failure of a manufacturer to meet reasonably his obligation to notify or remedy;

(d) Contain a brief summary of the data, views, or arguments that the petitioner wishes to present in a hearing on whether or not a manufacturer has reasonably met his obligations to notify or remedy;

(e) Specifically request a hearing.

§ 557.5 Improperly filed petitions.

(a) A petition that is not addressed as specified in § 557.4, but that meets the other requirements of that section, will be treated as a properly filed petition, received as of the time it is discovered and identified.

(b) A document that fails to conform to one or more of the requirements of paragraphs § 557.4(a)(1) through (5) will not be treated as a petition under this part. Such a document will be treated according to the existing correspondence and other procedures of the NHTSA, and any information contained in it will be considered at the discretion of the Administrator.

§ 557.6 Determination whether to hold a public hearing.

(a) The Administrator considers the following factors in determining whether to hold a hearing:

- (1) The nature of the complaint;
- (2) The seriousness of the alleged breach of obligation to remedy;
- (3) The existence of similar complaints;
- (4) The ability of the NHTSA to resolve the problem without holding a hearing; and
- (5) Other pertinent matters.

(b) If, after considering the above factors, the Administrator determines that a hearing should be held, the petition is granted. If it is determined that a hearing should not be held, the petition is denied. In either case, the petitioner is notified of the grant or denial not more than 60 days after receipt of the petition by the NHTSA.

(c) If a petition submitted under this part is denied, a FEDERAL REGISTER notice of the denial is issued within 45 days of the denial, setting forth the reasons for it.

(d) The Administrator may conduct a hearing under this part on his own motion.

§ 557.7 Public hearing.

If the Administrator decides that a public hearing under this part is necessary, he issues a notice of public hearing in the FEDERAL REGISTER, to advise interested persons of the time, place, and subject matter of the public hearing and invite their participation. Interested persons may submit their views through oral or written presentation, or both. There is no cross-examination of witnesses. A transcript of the hearing is kept and exhibits may be accepted as part of the transcript. Sections 556 and 557 of Title 5, United States Code, do not apply to hearings held under this part. When appropriate, the Chief Counsel designates a member of his staff to serve as legal officer at the hearing.

§ 557.8 Determination of manufacturer's obligation.

If the Administrator determines, on the basis of the information presented at a hearing or any other information that is available to him, that the manufacturer has not reasonably met his obligation to notify owners, dealers, and purchasers of a safety-related defect or failure to comply with a Federal motor vehicle safety standard or to remedy such defect or failure to comply, he orders the manufacturer to take specified action to comply with his obligation, consistent with the authority granted the Administrator by the Act.

41 F.R. 56810
December 30, 1976

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557.6 Determination whether to hold a public hearing.

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§ 557.1 Scope.

This part establishes procedures under section 156 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (88 Stat. 1470, 15 U.S.C. 1416), for the submission and disposition of petitions filed by interested persons for hearings on the question of whether a manufacturer has reasonably met his obligation to notify owners, purchasers, and dealers of a safety-related defect or failure to comply with a Federal motor vehicle safety standard, or to remedy such defect or failure to comply. This part also establishes procedures for holding a hearing on these questions.

§ 557.2 Purpose.

The purpose of this part is to enable the National Highway Traffic Safety Administration to identify and respond on a timely basis to petitions for hearings on whether a manufacturer has reasonably met his obligation to notify or remedy, and to establish the procedures for such hearings.

§ 557.3 General.

Any interested person may file with the Administrator a petition requesting him to hold a hearing on—

(a) Whether a manufacturer has reasonably met his obligation to notify owners, purchasers, and dealers of a safety-related defect in any motor vehicle or item of replacement equipment manufactured by him;

(b) Whether a manufacturer has reasonably met his obligation to notify owners, purchasers, and dealers of a failure to comply with an applicable Federal motor vehicle safety standard in any motor vehicle or item of replacement equipment manufactured by him;

(c) Whether the manufacturer has reasonably met his obligation to remedy a safety-related defect in any motor vehicle or item of replacement equipment manufactured by him; or

(d) Whether the manufacturer has reasonably met his obligation to remedy a failure to comply with an applicable Federal motor vehicle safety standard in any motor vehicle or item of replacement equipment manufactured by him.

§ 557.4 Requirements for petition.

A petition filed under this part should be addressed and submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590. Each petition filed under this part must—

(a) Be written in the English or Spanish language;

(b) Have, preceding its text, the word "Petition";

(c) Contain a brief statement concerning the alleged failure of a manufacturer to meet reasonably his obligation to notify or remedy;

(d) Contain a brief summary of the data, views, or arguments that the petitioner wishes to present in a hearing on whether or not a manufacturer has reasonably met his obligations to notify or remedy;

(e) Specifically request a hearing.

§ 557.5 Improperly filed petitions.

(a) A petition that is not addressed as specified in § 557.4, but that meets the other requirements of that section, will be treated as a properly filed petition, received as of the time it is discovered and identified.

(b) A document that fails to conform to one or more of the requirements of paragraphs § 557.4(a)(1) through (5) will not be treated as a petition under this part. Such a document will be treated according to the existing correspondence and other procedures of the NHTSA, and any information contained in it will be considered at the discretion of the Administrator.

§ 557.6 Determination whether to hold a public hearing.

(a) The Administrator considers the following factors in determining whether to hold a hearing:

- (1) The nature of the complaint;
- (2) The seriousness of the alleged breach of obligation to remedy;
- (3) The existence of similar complaints;
- (4) The ability of the NHTSA to resolve the problem without holding a hearing; and
- (5) Other pertinent matters.

(b) If, after considering the above factors, the Administrator determines that a hearing should be held, the petition is granted. If it is determined that a hearing should not be held, the petition is denied. In either case, the petitioner is notified of the grant or denial not more than 60 days after receipt of the petition by the NHTSA.

(c) If a petition submitted under this part is denied, a FEDERAL REGISTER notice of the denial is issued within 45 days of the denial, setting forth the reasons for it.

(d) The Administrator may conduct a hearing under this part on his own motion.

§ 557.7 Public hearing.

If the Administrator decides that a public hearing under this part is necessary, he issues a notice of public hearing in the FEDERAL REGISTER, to advise interested persons of the time, place, and subject matter of the public hearing and invite their participation. Interested persons may submit their views through oral or written presentation, or both. There is no cross-examination of witnesses. A transcript of the hearing is kept and exhibits may be accepted as part of the transcript. Sections 556 and 557 of Title 5, United States Code, do not apply to hearings held under this part. When appropriate, the Chief Counsel designates a member of his staff to serve as legal officer at the hearing.

§ 557.8 Determination of manufacturer's obligation.

If the Administrator determines, on the basis of the information presented at a hearing or any other information that is available to him, that the manufacturer has not reasonably met his obligation to notify owners, dealers, and purchasers of a safety-related defect or failure to comply with a Federal motor vehicle safety standard or to remedy such defect or failure to comply, he orders the manufacturer to take specified action to comply with his obligation, consistent with the authority granted the Administrator by the Act.

41 F.R. 56810
December 30, 1976

Vehicle Identification Number Content Requirements

(Docket No. 1-22; Notice 12)

ACTION: Final rule.

SUMMARY: This notice amends Federal Motor Vehicle Safety Standard No. 115, *Vehicle Identification Number*, by deleting portions of that standard and reissuing those portions as a general agency regulation. This is being taken in response to a petition from the Motor Vehicle Manufacturers Association (MVMA). It is intended to assure that the recall and remedy provisions of the National Traffic and Motor Vehicle Safety Act ("the Act") do not apply to certain errors in vehicle identification numbers (VIN's) which are minor and have no safety consequences. The basic substantive requirements of Standard 115 are unchanged by this action.

DATES: This action is effective 30 days after publication in the *Federal Register*.

SUPPLEMENTARY INFORMATION: The VIN is that unique number assigned each vehicle during production by the manufacturer for purposes of identification and inventory control. The VIN has other users. A variety of other organizations use the VIN for such purposes as vehicle registration, insurance rating, and theft investigation. NHTSA uses the VIN in its safety research and investigation activities.

In 1968, Federal Motor Vehicle Safety Standard (FMVSS) 115 was adopted, specifying that each passenger car must be assigned a unique VIN. In 1979, FMVSS 115 was extended to cover motor vehicles other than passenger cars. Also, a uniform, 17-character format for VIN's was then established, specifying coded information such as the identity of the manufacturer, vehicle make, type of vehicle, various vehicle attributes, model

year, plant of manufacture, and production sequence. The VIN also contains a check digit which aids in the detection of errors in the transcription of VIN's by the users of the numbers.

On June 13, 1980, MVMA petitioned this agency to withdraw FMVSS 115 and re-issue its provisions in the form of a general agency regulation. The significance of this change stems from section 152 of the Act (15 U.S.C. 1412), which provides that whenever the Secretary of Transportation determines that a vehicle does not comply with a FMVSS, the Secretary must require the vehicle's manufacturer to notify the owners, purchasers, and dealers of the vehicle of that noncompliance and to remedy the noncompliance. However, in the case of a noncompliance with a regulation other than a FMVSS, the notification and remedy requirements of the Act do not apply. For those noncompliances, more flexible methods of enforcement are permitted.

MVMA sought to assure through its requested amendment that errors in the assignment of VIN's would not trigger the recall and remedy provisions of the Act. Requiring that errors in assigned VIN's must be physically corrected would be undesirable in most cases for two reasons. First, correcting the errors would be an expensive and burdensome process, whose possible benefits would be greatly outweighed by the costs. These burdens and costs are discussed in the NPRM. In most cases, simply providing information on the nature of the error to users of the VIN's would solve any problems caused by the incorrect VIN. Second, changing a previously assigned VIN could create anti-theft problems. Law enforcement authorities consider the presence of an altered VIN in a vehicle to be an indication that the vehicle has been stolen. If VIN's were frequently altered lawfully, it would be more difficult for the police to detect stolen vehicles.

Further, if the equipment necessary to alter VIN's were widely available (such as at all auto dealers, as might be necessary to conduct a recall and remedy campaign), thieves' access to such equipment would be greatly increased. Law enforcement authorities have consistently recommended to NHTSA that VIN numbers, once assigned, should not be altered for any reason, even if the original number was incorrect.

The only exception to the recall requirement is contained in section 157 of the Act (15 U.S.C. 1417) which authorizes exemptions from these requirements based on a demonstration that the noncompliance is inconsequential as it relates to safety. This authority could be used to relieve a manufacturer of the necessity of conducting a recall and remedy campaign to correct minor VIN errors. Minor labeling errors were among the examples given in the legislative history of the provision for the sorts of errors that are inconsequential. While exemptions might well be given under section 157 for minor VIN errors, the necessity of conducting the exemption proceedings for such errors imposes an excessive administrative burden. The amendments made by this notice eliminate that burden.

MVMA suggested that one possible consequence of a change in the status of the VIN provisions might be a loss or narrowing of Federal preemption. Under section 103(d) of the Act (15 U.S.C. 1392(d)), whenever a FMVSS is in effect, no State may establish or maintain a requirement applicable to the same aspect of performance unless the State requirement is identical to the FMVSS. The removal of various VIN requirements from FMVSS 115 removes them also from the operation of section 103(d). Recognizing this and the clear undesirability of having differing VIN requirements established by the States, MVMA modified its petition on April 18, 1982. In its modified petition, MVMA requested that only certain VIN provisions be shifted from the standard to the regulation. Requirements establishing the fundamental characteristics of the VIN, such as its length, location, and readability, would remain in the standard. Under the amended petition, the content of the VIN would be specified in the VIN regulation. The combined standard/regulation scheme is intended to remove the threats of potentially costly recall campaigns to correct minor VIN errors or of inconsequentiality proceedings, while ensuring that the preemptive effect of the FMVSS is still maintained for the more significant requirements.

After reviewing the MVMA petition, the agency tentatively concluded that MVMA's suggested regulatory changes have merit, and proposed to adopt those changes. See 47 FR 42004, September 23, 1982. (The agency believes that general principles of Federal preemption are sufficient to assure that the VIN regulation will preempt any inconsistent State requirements.) Based on further review of that petition and the comments received on the September notice of proposed rulemaking (NPRM), the agency is herein adopting these changes in final form.

Comments on the NPRM

Virtually all the comments received on the September NPRM supported the proposed changes to FMVSS 115. However, several commenters suggested slight changes or clarifications to the proposed regulatory language. The most controversial aspect of the proposal was the provision which would exempt from certain VIN requirements vehicles imported into the United States under bond, which do not meet U.S. standards, but which will subsequently be modified to meet those standards. As a practical matter, this provision applies to individuals or organizations which import small numbers of vehicles. Several commenters expressed the fear that this provision could result in the importation of large numbers of vehicles (such as by a foreign manufacturer) with nonconforming VIN's. These commenters suggested that the exemption be limited to a maximum of 5 vehicles per year per individual. While the agency agrees that the exemption should not be applied to an actual manufacturer, it cannot justify selecting any particular arbitrary limit, such as five vehicles, to exclude larger commercial organizations. However, in response to these comments, the agency is amending this provision to exclude actual manufacturers of vehicles and their subsidiaries.

Several commenters also suggested that information on VIN errors should be provided to the National Crime Information Center (NCIC, part of the Federal Bureau of Investigation) and the National Automobile Theft Bureau (NATB, a private organization affiliated with the insurance industry). These organizations could enter the information in their computer systems, thereby making it available to State motor vehicle administrations, law enforcement organizations, and other

Vehicle Identification Number Content Requirements

(Docket No. 1-22; Notice 12)

ACTION: Final rule.

SUMMARY: This notice amends Federal Motor Vehicle Safety Standard No. 115, *Vehicle Identification Number*, by deleting portions of that standard and reissuing those portions as a general agency regulation. This is being taken in response to a petition from the Motor Vehicle Manufacturers Association (MVMA). It is intended to assure that the recall and remedy provisions of the National Traffic and Motor Vehicle Safety Act ("the Act") do not apply to certain errors in vehicle identification numbers (VIN's) which are minor and have no safety consequences. The basic substantive requirements of Standard 115 are unchanged by this action.

DATES: This action is effective 30 days after publication in the *Federal Register*.

SUPPLEMENTARY INFORMATION: The VIN is that unique number assigned each vehicle during production by the manufacturer for purposes of identification and inventory control. The VIN has other users. A variety of other organizations use the VIN for such purposes as vehicle registration, insurance rating, and theft investigation. NHTSA uses the VIN in its safety research and investigation activities.

In 1968, Federal Motor Vehicle Safety Standard (FMVSS) 115 was adopted, specifying that each passenger car must be assigned a unique VIN. In 1979, FMVSS 115 was extended to cover motor vehicles other than passenger cars. Also, a uniform, 17-character format for VIN's was then established, specifying coded information such as the identity of the manufacturer, vehicle make, type of vehicle, various vehicle attributes, model

year, plant of manufacture, and production sequence. The VIN also contains a check digit which aids in the detection of errors in the transcription of VIN's by the users of the numbers.

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The only exception to the recall requirement is contained in section 157 of the Act (15 U.S.C. 1417) which authorizes exemptions from these requirements based on a demonstration that the noncompliance is inconsequential as it relates to safety. This authority could be used to relieve a manufacturer of the necessity of conducting a recall and remedy campaign to correct minor VIN errors. Minor labeling errors were among the examples given in the legislative history of the provision for the sorts of errors that are inconsequential. While exemptions might well be given under section 157 for minor VIN errors, the necessity of conducting the exemption proceedings for such errors imposes an excessive administrative burden. The amendments made by this notice eliminate that burden.

MVMA suggested that one possible consequence of a change in the status of the VIN provisions might be a loss or narrowing of Federal preemption. Under section 103(d) of the Act (15 U.S.C. 1392(d)), whenever a FMVSS is in effect, no State may establish or maintain a requirement applicable to the same aspect of performance unless the State requirement is identical to the FMVSS. The removal of various VIN requirements from FMVSS 115 removes them also from the operation of section 103(d). Recognizing this and the clear undesirability of having differing VIN requirements established by the States, MVMA modified its petition on April 18, 1982. In its modified petition, MVMA requested that only certain VIN provisions be shifted from the standard to the regulation. Requirements establishing the fundamental characteristics of the VIN, such as its length, location, and readability, would remain in the standard. Under the amended petition, the content of the VIN would be specified in the VIN regulation. The combined standard/regulation scheme is intended to remove the threats of potentially costly recall campaigns to correct minor VIN errors or of inconsequentiality proceedings, while ensuring that the preemptive effect of the FMVSS is still maintained for the more significant requirements.

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Several commenters also suggested that information on VIN errors should be provided to the National Crime Information Center (NCIC, part of the Federal Bureau of Investigation) and the National Automobile Theft Bureau (NATB, a private organization affiliated with the insurance industry). These organizations could enter the information in their computer systems, thereby making it available to State motor vehicle administrations, law enforcement organizations, and other

VIN users. The agency agrees that taking this step would help assure that VIN users would have complete and accurate information on the VIN's which are actually assigned by the vehicle manufacturers. Accordingly, NHTSA will establish an internal procedure for routinely transmitting VIN error information to NCIC and NATB.

Most commenters also suggested that the agency define the term "trailer kit" and specify in the regulation the agency's previously established policy, i.e., that trailer kits are subject to the same VIN requirements as trailers. The agency believes that making these changes is appropriate, and is adopting a definition of trailer kits based on language in 49 CFR 567.4(g). "Trailer kits" are defined as a trailer which is delivered in complete but unassembled form, and which can be assembled without special machinery or tools.

MVMA suggested that the "trailer kit" definition should be added to the definitions in the beginning of Part 571. Taking that action would not serve any present purpose, since the term is apparently not used in any other FMVSS. MVMA also suggested incorporating all the definitions in Part 571 into FMVSS 115. The agency sees no need for this change, and making the change could have unintended effects, such as where a term's definition in one standard is inappropriate for use in FMVSS 115. Therefore, these recommendations were not adopted.

The International Association of Chiefs of Police and the NATB also suggested that the agency define the term "glider kit" and specify that VIN requirements are applicable to glider kits. Typically, a glider kit is a new truck cab, frame rails, and front suspension without drive train (engine, transmission, and rear axle). The treatment of combinations of new and used components in a single vehicle is currently specified in 49 CFR 571.7. Under that provision, the addition of a new cab, frame rail, and front suspension is deemed to create a new vehicle subject to all applicable safety standards in effect as of the date of remanufacture, unless the engine, transmission, and drive axle (as a minimum) of the assembled vehicle are not new and at least two of those listed components were taken from the same vehicle. Thus, in many situations, the use of a new glider kit would not require that a new VIN be affixed to the assembled vehicle. Further, it would be difficult for the glider kit manufacturer to assign a VIN, as

suggested by the two commenters, since a truck VIN must contain coded information regarding the engine type, and the glider kit manufacturer would not generally know what type of engine would be used with a particular kit. Therefore, the agency is not adopting the provisions suggested by these two commenters, and will instead rely on the existing regulations for dealing with glider kits.

The Iowa Department of Transportation objected to the practice of some motorcycle manufacturers of stamping a portion of the VIN on motorcycle frames. The Iowa agency points out that this practice could cause confusion as to which number is the actual VIN. NHTSA has taken the position that, so long as the vehicle manufacturer complies with all requirements in FMVSS 115 with regard to the specified 17 character number, these manufacturers may affix other numbers to the motorcycles for their own purposes. Currently, NHTSA cannot justify altering this policy. However, should we become aware of substantial numbers of incidents where the use of this supplementary number has undermined the Federal VIN system, we may consider prohibiting these supplementary numbers, requiring that supplementary numbers must be the same 17 character number as the VIN, or some clarifying labeling where other than the VIN is used. The NCIC objected to the exemption of farm equipment from VIN requirements. The VIN requirements, like all of the FMVSS, apply only to "motor vehicles", i.e., vehicles which are manufactured primarily for use on the public roads, consistent with the scope of the agency's regulatory authority under the Act. See section 102(3) of the Act. The agency lacks the authority to regulate vehicles which are principally used off the public roads, such as the vehicles cited by these two commenters. Should the States decide to apply VIN requirements to such vehicles as a matter of State law, NHTSA would have no objection.

Ford Motor Company and the MVMA pointed out that the requirement that VIN's affixed to vehicles must have a letter height of at least 4 millimeters should only apply to passenger cars and trucks with a gross vehicle weight rating of 10,000 pounds or less as the requirement has ever since it was established. In the NPRM, this requirement was inadvertently applied to all motor vehicles. The error is corrected in the final rule.

MVMA also requested that the new VIN regulation maintain the requirement that, for manufacturers of under 500 vehicles per year, the third

character of the VIN must be the number 9. The agency deleted this provision, since prior to its amendment today, FMVSS 115 gave the erroneous impression that vehicle manufacturers selected the world manufacturer identifier (WMI) portion of their VIN's. In fact, the Society of Automotive Engineers assigns those characters for U.S. manufacturers. The deletion of the phrase specifying the third character of the VIN for small manufacturers in no way changes the intended numbering system—SAE will continue to assign WMI's as it has in the past.

The American Association of Motor Vehicle Administrators has requested that NHTSA re-emphasize that vehicle manufacturers must submit and update deciphering information on their VIN systems. This final rule continues to provide that at least 60 days prior to affixing any VIN, or, when information is unavailable at that time, within one week after it becomes available, each manufacturer must submit information necessary to decipher its VIN system. This requirement, which has been in effect since January 1981, applies to both the original submission of deciphering information and to updates of that information as new products are offered by the manufacturer. It is the manufacturer's responsibility to assure that deciphering information provided to NHTSA is current.

Ford Motor Company argued that sections 108 and 152 of the Act, which the agency listed as part of the legal authority for the new VIN regulation, are not appropriate authority for this action. Section 108 was cited as authority merely to point out that, in conjunction with the reference to section 112 as authority for the action, failure to comply with the VIN regulation would be enforceable as a violation of section 108(a) (1) (E) of the Act. The reference to section 152 is included to point out the regulation is issued to facilitate carrying out the recall provisions of section 152 of the Act. The NPRM should also have included (and this final rule includes) a reference to the safety research authority of section 106 of the Act, a major use of the VIN information.

This action is being made effective 30 days after publication in the *Federal Register*. This relatively expedited effective date is in the public interest since it will quickly remove the potential problem of unwarranted VIN-related recalls.

The principal impact of this action is to remove this threat of an unduly burdensome recall requirement to correct VIN errors. The new Part 565 would not have any requirements not in FMVSS 115 prior to today. The agency anticipates that the manufacturers will continue to assign VIN's in the same manner regardless of whether VIN requirements take the form of a safety standard or a regulation. Further, the agency anticipates that the corrective action required in case of erroneous VIN's would not essentially differ as a result of this proposed change, since only in extreme cases can the agency envision having to order a vehicle recall.

This action should have a small positive impact on foreign trade, since it removes the threat to foreign manufacturers of a potentially burdensome recall campaign to correct minor VIN errors. Also, the exemption of vehicles imported under bond will have a small positive impact on foreign trade.

The agency has concluded that the environmental consequences of this action will be of such limited scope that they clearly will not have a significant effect on the quality of the human environment; that this proposal does not qualify as a "major rule" within the meaning of Executive Order 12291; and that due to its minimal cost impacts, this rule is not "significant" within the meaning of the Department's regulatory procedures. Therefore, preparation of neither a regulatory analysis nor full regulatory evaluation is necessary for this action. The agency notes this rulemaking action should have a small, positive impact on small firms—particularly small manufacturers and small importers. This regulation provides relief to small manufacturers from the generally applicable 60-day VIN prenotification requirements in the case of orders for unique vehicle configurations. The agency is also exempting small importers (principally individuals importing one vehicle for their own use) from certain VIN format and content requirements. Given the relatively minor economic consequences of these changes, I certify that this action will have no significant economic impact on a substantial number of small entities, including small organizations or governmental units. These changes should have no impact on vehicle prices. For this reason and because VIN's will continue to be assigned to new vehicles as before, the agency does not anticipate any impacts on small organizations or governmental

VIN users. The agency agrees that taking this step would help assure that VIN users would have complete and accurate information on the VIN's which are actually assigned by the vehicle manufacturers. Accordingly, NHTSA will establish an internal procedure for routinely transmitting VIN error information to NCIC and NATB.

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Ford Motor Company and the MVMA pointed out that the requirement that VIN's affixed to vehicles must have a letter height of at least 4 millimeters should only apply to passenger cars and trucks with a gross vehicle weight rating of 10,000 pounds or less as the requirement has ever since it was established. In the NPRM, this requirement was inadvertently applied to all motor vehicles. The error is corrected in the final rule.

MVMA also requested that the new VIN regulation maintain the requirement that, for manufacturers of under 500 vehicles per year, the third

character of the VIN must be the number 9. The agency deleted this provision, since prior to its amendment today, FMVSS 115 gave the erroneous impression that vehicle manufacturers selected the world manufacturer identifier (WMI) portion of their VIN's. In fact, the Society of Automotive Engineers assigns those characters for U.S. manufacturers. The deletion of the phrase specifying the third character of the VIN for small manufacturers in no way changes the intended numbering system—SAE will continue to assign WMI's as it has in the past.

The American Association of Motor Vehicle Administrators has requested that NHTSA re-emphasize that vehicle manufacturers must submit and update deciphering information on their VIN systems. This final rule continues to provide that at least 60 days prior to affixing any VIN, or, when information is unavailable at that time, within one week after it becomes available, each manufacturer must submit information necessary to decipher its VIN system. This requirement, which has been in effect since January 1981, applies to both the original submission of deciphering information and to updates of that information as new products are offered by the manufacturer. It is the manufacturer's responsibility to assure that deciphering information provided to NHTSA is current.

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This action is being made effective 30 days after publication in the *Federal Register*. This relatively expedited effective date is in the public interest since it will quickly remove the potential problem of unwarranted VIN-related recalls.

The principal impact of this action is to remove this threat of an unduly burdensome recall requirement to correct VIN errors. The new Part 565 would not have any requirements not in FMVSS 115 prior to today. The agency anticipates that the manufacturers will continue to assign VIN's in the same manner regardless of whether VIN requirements take the form of a safety standard or a regulation. Further, the agency anticipates that the corrective action required in case of erroneous VIN's would not essentially differ as a result of this proposed change, since only in extreme cases can the agency envision having to order a vehicle recall.

This action should have a small positive impact on foreign trade, since it removes the threat to foreign manufacturers of a potentially burdensome recall campaign to correct minor VIN errors. Also, the exemption of vehicles imported under bond will have a small positive impact on foreign trade.

The agency has concluded that the environmental consequences of this action will be of such limited scope that they clearly will not have a significant effect on the quality of the human environment; that this proposal does not qualify as a "major rule" within the meaning of Executive Order 12291; and that due to its minimal cost impacts, this rule is not "significant" within the meaning of the Department's regulatory procedures. Therefore, preparation of neither a regulatory analysis nor full regulatory evaluation is necessary for this action. The agency notes this rulemaking action should have a small, positive impact on small firms—particularly small manufacturers and small importers. This regulation provides relief to small manufacturers from the generally applicable 60-day VIN prenotification requirements in the case of orders for unique vehicle configurations. The agency is also exempting small importers (principally individuals importing one vehicle for their own use) from certain VIN format and content requirements. Given the relatively minor economic consequences of these changes, I certify that this action will have no significant economic impact on a substantial number of small entities, including small organizations or governmental units. These changes should have no impact on vehicle prices. For this reason and because VIN's will continue to be assigned to new vehicles as before, the agency does not anticipate any impacts on small organizations or governmental

units. Accordingly, no Regulatory Flexibility Analysis has been prepared.

For the reasons stated above, the agency is amending Chapter V of Title 49 of the Code of Federal Regulations by adding a new Part 565.

Issued May 13, 1983.

Raymond A. Peck, Jr.,
Administrator
48 F.R. 22567
May 19, 1983

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Issued May 13, 1983.

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48 F.R. 22567

May 19, 1983

PART 565—VEHICLE IDENTIFICATION NUMBER— CONTENT REQUIREMENTS

Sec.

565.1 Purpose and scope.

565.2 Applications.

565.3 Definitions.

565.4 General requirements.

565.5 Reporting requirements.

§ 565.1 Purpose and scope.

This regulation specifies the format and content for a vehicle identification number (VIN) system to simplify vehicle identification information retrieval and increase the accuracy and efficiency of vehicle defect recall campaigns.

§ 565.2 Applicability.

This regulation applies to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers (including trailer kits), incomplete vehicles and motorcycles. Vehicles imported into the United States under 19 CFR 12.80(b) (1) (iii), other than by a corporation which was responsible for the assembly of that vehicle or a subsidiary of such a corporation, are exempt from the requirements of this Part.

§ 565.3 Definitions.

(a) Statutory Definitions: All terms used in this part that are defined in section 102 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391) are used as defined in the Act.

(b) Motor Vehicle Safety Standard Definitions: Unless otherwise indicated, all terms used in this part that are defined in 49 CFR 571.115 are used as defined therein.

(c) "Body Type" means the general configuration or shape of a vehicle distinguished by such characteristics as the number of doors or windows, cargo-carrying features and the roofline (e.g., sedan, fastback, hatchback).

(d) "Engine Type" means a power source with defined characteristics such as fuel utilized,

number of cylinders, displacement, and net brake horsepower. The specific manufacturer and make shall be represented if the engine powers a passenger car or a multipurpose passenger vehicle, or truck with a gross vehicle weight rating of 10,000 pounds or less.

(e) "Line" means a name which a manufacturer applies to a family of vehicles within a make which have a degree of commonality in construction, such as body, chassis or cab type.

(f) "Make" means a name which a manufacturer applies to a group of vehicles or engines.

(g) "Model" means a name which a manufacturer applies to a family of vehicles of the same type, make, line, series, and body type.

(h) "Model Year" means the year used to designate a discrete vehicle model irrespective of the calendar year in which the vehicle was actually produced, so long as the actual period is less than two calendar years.

(i) "Plant of manufacture" means the plant where the manufacturer affixes the VIN.

(j) "Series" means a name which a manufacturer applies to a subdivision of a "line" denoting price, size or weight identification, and which is utilized by the manufacturer for marketing purposes.

(k) "Type" means a class of vehicle distinguished by common traits, including design and purpose. Passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, incomplete vehicles, and motorcycles are separate types.

§ 565.4 General requirements.

The VIN shall consist of four sections of characters which shall be grouped accordingly:

(a) The first section shall consist of three characters which occupy positions one through three (1-3) in the VIN. This section shall uniquely identify the manufacturer, make and type of the motor vehicle if its manufacturer produces 500 or more motor vehicles of its type annually. If the

manufacturer produces less than 500 motor vehicles of its type annually, those three characters along with the third, fourth and fifth characters of the fourth section shall uniquely identify the manufacturer, make and type of the motor vehicle. These characters are assigned in accordance with section 565.5(c) of this Part.

(b) The second section shall consist of five characters which occupy positions four through eight (4-8) in the VIN. This section shall uniquely identify the attributes of the vehicles as specified in Table I. For passenger cars, and for multipurpose passenger vehicles and trucks with a gross vehicle weight rating of 10,000 pounds or less, the first and second characters shall be alphabetic and the third and fourth characters shall be numeric. The fifth character may be either alphabetic or numeric. The characters utilized and their placement within the section may be determined by the manufacturer, but the specified attributes must be decipherable with information supplied by the manufacturer in accordance with § 565.5(d) of this Part. In submitting the required information to the NHTSA relating to gross vehicle weight rating, the designations in Table II shall be utilized. The use of these designations within the VIN itself is not required.

Table I.—Type of Vehicle and Information Decipherable

Passenger car: Line, series, body type, engine type,¹ and restraint system type.

Multipurpose passenger vehicle: Line, series, body type, engine type,¹ gross vehicle weight rating.

Truck: Model or line, series, chassis, cab type, engine type,¹ brake system and gross vehicle weight rating.

Bus: Model or line, series, body type, engine type,¹ and brake system.

Trailer, including trailer kit: Type of trailer, series, body type, length, and axle configuration.¹

Motorcycle: Type of motorcycle, line, engine type,¹ and net brake horsepower.¹

Incomplete vehicle: Model or line, series, cab type, engine type,¹ and brake system.

Table II.—Gross Vehicle Weight Rating Classes

Class A	Not greater than 3,000 pounds.
Class B.....	3,001-4,000 pounds.
Class C.....	4,001-5,000 pounds.
Class D	5,001-6,000 pounds.
Class E	6,001-7,000 pounds.
Class F.....	7,001-8,000 pounds.
Class G.....	8,001-9,000 pounds.
Class H	9,001-10,000 pounds.
Class 3	10,001-14,000 pounds.
Class 4	14,001-16,000 pounds.
Class 5	16,001-19,500 pounds.
Class 6	19,501-26,000 pounds.
Class 7	26,001-33,000 pounds.
Class 8	33,001 pounds and over.

(c) The third section shall consist of one character which occupies position nine (9) in type VIN. This section shall be the check digit whose purpose is to provide a means for verifying the accuracy of any VIN transcription. After all other characters in VIN have been determined by the manufacturer, the check digit shall be calculated by carrying out the mathematical computation specified in paragraphs (c) (1) through (4) of this section.

(1) Assign to each number in the VIN its actual mathematical value and assign to each letter the value specified for it in Table III.

Table III.—Assigned Values

A = 1	J = 1	T = 3
B = 2	K = 2	U = 4
C = 3	L = 3	V = 5
D = 4	M = 4	W = 6
E = 5	N = 5	X = 7
F = 6	P = 7	Y = 8
G = 7	R = 9	Z = 9
H = 8	S = 2	

(2) Multiply the assigned value for each character in the VIN by the position weight factor specified in Table IV.

¹ Engine net brake horsepower when encoded in the VIN shall differ by no more than 10 percent from the actual net brake horsepower, shall, in the case of motorcycle with an actual net brake horsepower of 2 or less, be not more than 2; and shall, in the case of a motorcycle with an actual brake horsepower greater than 2, be greater than 2.

PART 565—VEHICLE IDENTIFICATION NUMBER— CONTENT REQUIREMENTS

Sec.

565.1 Purpose and scope.

565.2 Applications.

565.3 Definitions.

565.4 General requirements.

565.5 Reporting requirements.

§ 565.1 Purpose and scope.

This regulation specifies the format and content for a vehicle identification number (VIN) system to simplify vehicle identification information retrieval and increase the accuracy and efficiency of vehicle defect recall campaigns.

§ 565.2 Applicability.

This regulation applies to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers (including trailer kits), incomplete vehicles and motorcycles. Vehicles imported into the United States under 19 CFR 12.80(b) (1) (iii), other than by a corporation which was responsible for the assembly of that vehicle or a subsidiary of such a corporation, are exempt from the requirements of this Part.

§ 565.3 Definitions.

(a) Statutory Definitions: All terms used in this part that are defined in section 102 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391) are used as defined in the Act.

(b) Motor Vehicle Safety Standard Definitions: Unless otherwise indicated, all terms used in this part that are defined in 49 CFR 571.115 are used as defined therein.

(c) "Body Type" means the general configuration or shape of a vehicle distinguished by such characteristics as the number of doors or windows, cargo-carrying features and the roofline (e.g., sedan, fastback, hatchback).

(d) "Engine Type" means a power source with defined characteristics such as fuel utilized,

number of cylinders, displacement, and net brake horsepower. The specific manufacturer and make shall be represented if the engine powers a passenger car or a multipurpose passenger vehicle, or truck with a gross vehicle weight rating of 10,000 pounds or less.

(e) "Line" means a name which a manufacturer applies to a family of vehicles within a make which have a degree of commonality in construction, such as body, chassis or cab type.

(f) "Make" means a name which a manufacturer applies to a group of vehicles or engines.

(g) "Model" means a name which a manufacturer applies to a family of vehicles of the same type, make, line, series, and body type.

(h) "Model Year" means the year used to designate a discrete vehicle model irrespective of the calendar year in which the vehicle was actually produced, so long as the actual period is less than two calendar years.

(i) "Plant of manufacture" means the plant where the manufacturer affixes the VIN.

(j) "Series" means a name which a manufacturer applies to a subdivision of a "line" denoting price, size or weight identification, and which is utilized by the manufacturer for marketing purposes.

(k) "Type" means a class of vehicle distinguished by common traits, including design and purpose. Passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, incomplete vehicles, and motorcycles are separate types.

§ 565.4 General requirements.

The VIN shall consist of four sections of characters which shall be grouped accordingly:

(a) The first section shall consist of three characters which occupy positions one through three (1-3) in the VIN. This section shall uniquely identify the manufacturer, make and type of the motor vehicle if its manufacturer produces 500 or more motor vehicles of its type annually. If the

manufacturer produces less than 500 motor vehicles of its type annually, those three characters along with the third, fourth and fifth characters of the fourth section shall uniquely identify the manufacturer, make and type of the motor vehicle. These characters are assigned in accordance with section 565.5(c) of this Part.

(b) The second section shall consist of five characters which occupy positions four through eight (4–8) in the VIN. This section shall uniquely identify the attributes of the vehicles as specified in Table I. For passenger cars, and for multipurpose passenger vehicles and trucks with a gross vehicle weight rating of 10,000 pounds or less, the first and second characters shall be alphabetic and the third and fourth characters shall be numeric. The fifth character may be either alphabetic or numeric. The characters utilized and their placement within the section may be determined by the manufacturer, but the specified attributes must be decipherable with information supplied by the manufacturer in accordance with § 565.5(d) of this Part. In submitting the required information to the NHTSA relating to gross vehicle weight rating, the designations in Table II shall be utilized. The use of these designations within the VIN itself is not required.

Table I.—Type of Vehicle and Information Decipherable

Passenger car: Line, series, body type, engine type,¹ and restraint system type.

Multipurpose passenger vehicle: Line, series, body type, engine type,¹ gross vehicle weight rating.

Truck: Model or line, series, chassis, cab type, engine type,¹ brake system and gross vehicle weight rating.

Bus: Model or line, series, body type, engine type,¹ and brake system.

Trailer, including trailer kit: Type of trailer, series, body type, length, and axle configuration.¹

Motorcycle: Type of motorcycle, line, engine type,¹ and net brake horsepower.¹

Incomplete vehicle: Model or line, series, cab type, engine type,¹ and brake system.

Table II.—Gross Vehicle Weight Rating Classes

Class A	Not greater than 3,000 pounds.
Class B.....	3,001–4,000 pounds.
Class C.....	4,001–5,000 pounds.
Class D	5,001–6,000 pounds.
Class E	6,001–7,000 pounds.
Class F.....	7,001–8,000 pounds.
Class G.....	8,001–9,000 pounds.
Class H	9,001–10,000 pounds.
Class 3	10,001–14,000 pounds.
Class 4	14,001–16,000 pounds.
Class 5	16,001–19,500 pounds.
Class 6	19,501–26,000 pounds.
Class 7	26,001–33,000 pounds.
Class 8	33,001 pounds and over.

(c) The third section shall consist of one character which occupies position nine (9) in type VIN. This section shall be the check digit whose purpose is to provide a means for verifying the accuracy of any VIN transcription. After all other characters in VIN have been determined by the manufacturer, the check digit shall be calculated by carrying out the mathematical computation specified in paragraphs (c) (1) through (4) of this section.

(1) Assign to each number in the VIN its actual mathematical value and assign to each letter the value specified for it in Table III.

Table III.—Assigned Values

A = 1	J = 1	T = 3
B = 2	K = 2	U = 4
C = 3	L = 3	V = 5
D = 4	M = 4	W = 6
E = 5	N = 5	X = 7
F = 6	P = 7	Y = 8
G = 7	R = 9	Z = 9
H = 8	S = 2	

(2) Multiply the assigned value for each character in the VIN by the position weight factor specified in Table IV.

¹ Engine net brake horsepower when encoded in the VIN shall differ by no more than 10 percent from the actual net brake horsepower, shall, in the case of motorcycle with an actual net brake horsepower of 2 or less, be not more than 2; and shall, in the case of a motorcycle with an actual brake horsepower greater than 2, be greater than 2.

Table IV —VIN Position and Weight Factor

1st	8	10th	9
2d	7	11th	8
3d	6	12th	7
4th	5	13th	6
5th	4	14th	5
6th	3	15th	4
7th	2	16th	3
8th	10	17th	2
9th (check digit)	0		

(3) Add the resulting products and divide the total by 11.

(4) The numerical remainder is the check digit. If the remainder is 10 the letter "X" shall be used to designate the check digit. The correct numerical remainder zero through nine (0-9) or the letter "X" shall appear in VIN position nine (9).

(5) A sample check digit calculation is shown in Table V.

Table V.—Calculations of a Check Digit

VIN Position	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Sample VIN	1	G	4	A	H	5	9	H	..	5	G	1	1	8	3	4	1
Assigned Value	1	7	4	1	8	5	9	8	..	5	7	1	1	8	3	4	1
Multiply by weight factor	8	7	6	5	4	3	2	10	0	9	8	7	6	5	4	3	2

Add products $8 + 49 + 24 + 5 + 32 + 15 + 18 + 80 + 0 + 45 + 56 + 7 + 6 + 40 + 12 + 12 + 2 = 411$

Divide sum of products by $11: 411/11 = 37^4_{11}$

Remainder is check digit #4 (insert in VIN position nine (9))

(d) The fourth section shall consist of eight characters which occupy positions ten through seventeen (10-17) of the VIN. The last five (5) characters of this section shall be numeric for passenger cars, and for multipurpose passenger vehicles and trucks with a gross vehicle weight rating of 10,000 pounds or less, and the last four (4) characters shall be numeric for all other vehicles.

(1) The first character of the fourth section shall represent the vehicle model year. The year shall be designated as indicated in Table VI.

Table VI

Year	Code	Year	Code
1980	A	1997	V
1981	B	1998	W
1982	C	1999	X
1983	D	2000	Y
1984	E	2001	1
1985	F	2002	2
1986	G	2003	3
1987	H	2004	4
1988	J	2005	5
1989	K	2006	6
1990	L	2007	7
1991	M	2008	8
1992	N	2009	9
1993	P	2010	A
1994	R	2011	B
1995	S	2012	C
1996	T	2013	D

(2) The second character of the fourth section shall represent the plant of manufacture.

(3) The third through the eighth characters of the fourth section shall represent the number sequentially assigned by the manufacturer in the production process if the manufacturer produces 500 or more vehicles of its type annually. If the manufacturer produces less than 500 motor vehicles of its type annually, the third, fourth, and fifth characters of the fourth section, combined with the three characters of the first section, shall uniquely identify the manufacturer, make and type of the motor vehicle and the sixth, seventh, and eighth characters of the fourth section shall represent the number sequentially assigned by the manufacturer in the production process.

§ 565.5 Reporting requirements.

(a) Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act (Pub. L. 96-511) and have been assigned OMB Control Number 2127-0051.

(b) Manufacturers of motor vehicles subject to this regulation shall submit, either directly or through an agent, the unique identifier for each make and type of vehicle it manufactures at least

60 days before affixing the first VIN using the identifier. Manufacturers whose unique identifier appears in the fourth section of the VIN shall also submit the three characters of the first section which constitutes a part of their identifier.

(c) The NHTSA has contracted with the Society of Automotive Engineers (SAE) to coordinate the assignment of manufacturer identifiers. Manufacturer identifiers will be supplied by SAE at no charge. All requests for assignments of manufacturer identifiers should be forwarded directly to: Society of Automotive Engineers, 400 Commonwealth Avenue, Warrendale, Pennsylvania 15096, Attention: WMI Coordinator.

Any requests for identifiers submitted to NHTSA will be forwarded to SAE. Manufacturers may request a specific identifier or may request only assignment of an identifier(s). SAE will review requests for specific identifiers to determine that they do not conflict with an identifier already assigned or block of identifiers already reserved. SAE will confirm the assignments in writing to the requester. Once confirmed by SAE, the identifier need not be resubmitted to the NHTSA.

(d) Manufacturers of motor vehicles subject to the requirements of this regulation shall submit to the NHTSA the information necessary to decipher the characters contained in its VIN's. Amendments to this information shall be submitted to the agency for VIN's containing an amended coding. The agency will not routinely provide written approvals of these submissions, but will contact the manufacturer should any corrections to these submissions be necessary.

(e) The information required under paragraph (d) of this section shall be submitted at least 60 days prior to offering for sale the first vehicle identified by a VIN containing that information, or if information concerning vehicle characteristics sufficient to specify the VIN Code is unavailable to the manufacturer by that date, then within one week after that information first becomes available. The information shall be addressed to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, Attention: VIN Coordinator.

Table IV —VIN Position and Weight Factor

1st	8	10th	9
2d	7	11th	8
3d	6	12th	7
4th	5	13th	6
5th	4	14th	5
6th	3	15th	4
7th	2	16th	3
8th	10	17th	2
9th (check digit)	0		

(3) Add the resulting products and divide the total by 11.

(4) The numerical remainder is the check digit. If the remainder is 10 the letter "X" shall be used to designate the check digit. The correct numerical remainder zero through nine (0-9) or the letter "X" shall appear in VIN position nine (9).

(5) A sample check digit calculation is shown in Table V.

Table V.—Calculations of a Check Digit

VIN Position	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Sample VIN	1	G	4	A	H	5	9	H	..	5	G	1	1	8	3	4	1
Assigned Value	1	7	4	1	8	5	9	8	..	5	7	1	1	8	3	4	1
Multiply by weight factor	8	7	6	5	4	3	2	10	0	9	8	7	6	5	4	3	2

Add products $8 + 49 + 24 + 5 + 32 + 15 + 18 + 80 + 0 + 45 + 56 + 7 + 6 + 40 + 12 + 12 + 2 = 411$

Divide sum of products by $11: 411/11 = 37^4_{11}$

Remainder is check digit #4 (insert in VIN position nine (9))

(d) The fourth section shall consist of eight characters which occupy positions ten through seventeen (10-17) of the VIN. The last five (5) characters of this section shall be numeric for passenger cars, and for multipurpose passenger vehicles and trucks with a gross vehicle weight rating of 10,000 pounds or less, and the last four (4) characters shall be numeric for all other vehicles.

(1) The first character of the fourth section shall represent the vehicle model year. The year shall be designated as indicated in Table VI.

Table VI

Year	Code	Year	Code
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1985	F	2002	2
1986	G	2003	3
1987	H	2004	4
1988	J	2005	5
1989	K	2006	6
1990	L	2007	7
1991	M	2008	8
1992	N	2009	9
1993	P	2010	A
1994	R	2011	B
1995	S	2012	C
1996	T	2013	D

(2) The second character of the fourth section shall represent the plant of manufacture.

(3) The third through the eighth characters of the fourth section shall represent the number sequentially assigned by the manufacturer in the production process if the manufacturer produces 500 or more vehicles of its type annually. If the manufacturer produces less than 500 motor vehicles of its type annually, the third, fourth, and fifth characters of the fourth section, combined with the three characters of the first section, shall uniquely identify the manufacturer, make and type of the motor vehicle and the sixth, seventh, and eighth characters of the fourth section shall represent the number sequentially assigned by the manufacturer in the production process.

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(b) Manufacturers of motor vehicles subject to this regulation shall submit, either directly or through an agent, the unique identifier for each make and type of vehicle it manufactures at least

60 days before affixing the first VIN using the identifier. Manufacturers whose unique identifier appears in the fourth section of the VIN shall also submit the three characters of the first section which constitutes a part of their identifier.

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(d) Manufacturers of motor vehicles subject to the requirements of this regulation shall submit to the NHTSA the information necessary to decipher the characters contained in its VIN's. Amendments to this information shall be submitted to the agency for VIN's containing an amended coding. The agency will not routinely provide written approvals of these submissions, but will contact the manufacturer should any corrections to these submissions be necessary.

(e) The information required under paragraph (d) of this section shall be submitted at least 60 days prior to offering for sale the first vehicle identified by a VIN containing that information, or if information concerning vehicle characteristics sufficient to specify the VIN Code is unavailable to the manufacturer by that date, then within one week after that information first becomes available. The information shall be addressed to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, Attention: VIN Coordinator.

PREAMBLE TO PART 566—MANUFACTURER IDENTIFICATION**(Docket No. 71-11; Notice 2)**

This notice adopts a new Part 566 in Title 49, Code of Federal Regulations, to require manufacturers of motor vehicles, and manufacturers of motor vehicle equipment to which a motor vehicle safety standard applies, to submit identifying information and a description of the items they produce. A notice of proposed rule-making on this subject was published on April 28, 1971 (36 F.R. 7970). The comments received in response to the notice have been considered in this issuance of a final rule. The final rule exempts tire manufacturers from coverage, deletes the required submittal of estimated annual production, and requires the manufacturer to submit revised information when necessary to keep his entry current.

As noted in the proposal of April 28, 1971 (36 F.R. 7970) the establishment of a centrally organized system to collect information regarding the manufacturer's corporate status, mailing address, and items manufactured has been found necessary for efficient enforcement of the Act, as well as for distribution of information to manufacturers.

Several manufacturers stated that the information required by the regulations is already submitted to the NHTSA under existing regulations. This claim is true only with respect to tire manufacturers, who are required under Part 574, Tire Identification and Recordkeeping, (36 F.R. 1196, at 1197-8) to submit to the NHTSA data which would meet the requirements of the proposed regulation in order to obtain their code numbers. The tire manufacturers' request for exemption has therefore been granted.

While it is true that the Defect Reports regulation (36 F.R. 3064) requires the submittal of some information similar to the data collected under the proposed regulation, the former re-

quirement does not provide the comprehensive data required by the Administration.

The largest number of comments were directed at the required submittal of estimated annual production figures. Upon consideration of the comments and review of the Administration's need for this data, it has been determined that its collection would create difficulties for the industry that outweigh its benefits, particularly since approximate information about production is available to the NHTSA from other sources. Therefore this requirement is deleted.

A number of manufacturers were uncertain about their coverage under the proposed regulation. One packager of brake fluids stated that he did not manufacture the fluid and wished to know whether he is considered a manufacturer under the regulation. The packager's operations may significantly affect the quality of the brake fluid. Moreover, under amended Federal Vehicle Safety Standard No. 116, "Motor Vehicle Hydraulic Brake Fluids", the original manufacturer in some cases will not be identified on the container label. For these reasons it has been determined that for the purposes of this regulation, a person who packages brake fluid from a bulk state shall be considered a manufacturer of motor vehicle equipment and therefore subject to the regulation.

A manufacturer of mobile homes sought an exemption from coverage on the grounds that the general public does not usually engage in transporting mobile structure trailers. The fact that only "experts" transport the regulated vehicle is not germane to the question of its inclusion under the regulation, however, since the identification requirement is based on the general determination that the centralized data system

Effective: February 1, 1972

will improve enforcement of the Act and communication with manufacturers.

An incomplete vehicle manufacturer submitted a comment regarding the requirement that manufacturers of multipurpose passenger vehicles, trucks and trailers submit a description indicating the intended final use of their product. The final rule as issued does not specifically include incomplete vehicle manufacturers. A notice of proposed rulemaking published in this issue of the Federal Register would, however, amend the regulation to provide coverage of incomplete vehicles.

The time-of-submittal section has been clarified in light of the comments. It is intended that a manufacturer supply the required information when he begins to manufacture the motor vehicle or covered equipment. The regulation has been amended to indicate that subsequent submittals will be necessary only when changes in the manufacturer's business render the submitted data inaccurate or incomplete.

A number of manufacturers offered recommendations as to the classification system to be adopted by the Administration utilizing the data

collected under this regulation. Such discussion is beyond the scope of this regulation, but these suggestions will be considered at the appropriate time.

One manufacturer petitioned for a public hearing to discuss the NHTSA's planned use of the information collected under the regulation. Since the required submittal of estimated annual production figures has been deleted from the final rule, the concern about the use of the information by the Administration would appear to be dispelled, and a public hearing has been found to be unnecessary. The petition is therefore denied.

Effective date: February 1, 1972.

In consideration of the above, Part 566, Manufacturer Identification, is added to Title 49, Code of Federal Regulations. . . .

Issued on October 22, 1971.

Douglas W. Toms
Administrator

36 F.R. 20977
November 2, 1971

PREAMBLE TO PART 566—MANUFACTURER IDENTIFICATION**(Docket No. 71-11; Notice 2)**

This notice adopts a new Part 566 in Title 49, Code of Federal Regulations, to require manufacturers of motor vehicles, and manufacturers of motor vehicle equipment to which a motor vehicle safety standard applies, to submit identifying information and a description of the items they produce. A notice of proposed rule-making on this subject was published on April 28, 1971 (36 F.R. 7970). The comments received in response to the notice have been considered in this issuance of a final rule. The final rule exempts tire manufacturers from coverage, deletes the required submittal of estimated annual production, and requires the manufacturer to submit revised information when necessary to keep his entry current.

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Several manufacturers stated that the information required by the regulations is already submitted to the NHTSA under existing regulations. This claim is true only with respect to tire manufacturers, who are required under Part 574, Tire Identification and Recordkeeping, (36 F.R. 1196, at 1197-8) to submit to the NHTSA data which would meet the requirements of the proposed regulation in order to obtain their code numbers. The tire manufacturers' request for exemption has therefore been granted.

While it is true that the Defect Reports regulation (36 F.R. 3064) requires the submittal of some information similar to the data collected under the proposed regulation, the former re-

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A number of manufacturers were uncertain about their coverage under the proposed regulation. One packager of brake fluids stated that he did not manufacture the fluid and wished to know whether he is considered a manufacturer under the regulation. The packager's operations may significantly affect the quality of the brake fluid. Moreover, under amended Federal Vehicle Safety Standard No. 116, "Motor Vehicle Hydraulic Brake Fluids", the original manufacturer in some cases will not be identified on the container label. For these reasons it has been determined that for the purposes of this regulation, a person who packages brake fluid from a bulk state shall be considered a manufacturer of motor vehicle equipment and therefore subject to the regulation.

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Effective: February 1, 1972

will improve enforcement of the Act and communication with manufacturers.

An incomplete vehicle manufacturer submitted a comment regarding the requirement that manufacturers of multipurpose passenger vehicles, trucks and trailers submit a description indicating the intended final use of their product. The final rule as issued does not specifically include incomplete vehicle manufacturers. A notice of proposed rulemaking published in this issue of the Federal Register would, however, amend the regulation to provide coverage of incomplete vehicles.

The time-of-submittal section has been clarified in light of the comments. It is intended that a manufacturer supply the required information when he begins to manufacture the motor vehicle or covered equipment. The regulation has been amended to indicate that subsequent submittals will be necessary only when changes in the manufacturer's business render the submitted data inaccurate or incomplete.

A number of manufacturers offered recommendations as to the classification system to be adopted by the Administration utilizing the data

collected under this regulation. Such discussion is beyond the scope of this regulation, but these suggestions will be considered at the appropriate time.

One manufacturer petitioned for a public hearing to discuss the NHTSA's planned use of the information collected under the regulation. Since the required submittal of estimated annual production figures has been deleted from the final rule, the concern about the use of the information by the Administration would appear to be dispelled, and a public hearing has been found to be unnecessary. The petition is therefore denied.

Effective date: February 1, 1972.

In consideration of the above, Part 566, Manufacturer Identification, is added to Title 49, Code of Federal Regulations. . . .

Issued on October 22, 1971.

Douglas W. Toms
Administrator

36 F.R. 20977
November 2, 1971

PREAMBLE TO AMENDMENT TO PART 566—MANUFACTURER IDENTIFICATION

(Docket No. 71-11; Notice 4)

This notice amends Part 566 in Title 49, Code of Federal Regulations, to provide for the coverage of "incomplete vehicles," as defined in Part 568, Vehicles Manufactured in Two or More Stages. A notice of proposed rulemaking on this subject was published on November 2, 1971 (36 F.R. 20987). No comments on the proposed amendment were received, and the amendment is adopted as proposed.

Part 566, published on November 2, 1971 (36 F.R. 20977), requires manufacturers of motor vehicles and of motor vehicle equipment other than tires to which a motor vehicle safety standard applies to submit identifying information and a description of the items which they produce. In responding to a comment on the proposed regulation from an incomplete vehicle manufacturer, it was noted that while the regulation clearly covers intermediate and final-stage manufacturers (as defined in Part 568) it makes no reference to incomplete vehicle manufacturers. This amendment is intended to clarify this ambiguity by specifically providing for coverage of incomplete vehicles.

The incomplete vehicle manufacturer stated that he was unaware of the final use of his light truck vehicles and requested that he be permitted to submit a brief description of the incomplete vehicle expressed in the terminology of the industry as an alternative to the description in terms of final use. This method for incomplete vehicle manufacturers has been found acceptable, and the NHTSA accordingly grants this request.

In consideration of the foregoing, the NHTSA adopts amendments to Part 566 of Title 49, Code of Federal Regulations

Effective date: February 1, 1972.

This amendment is issued under the authority of sections 103, 108, 112 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1397, 1401, 1407, and the delegation of authority at 49 CFR 1.51.

Issued on January 24, 1972.

Douglas W. Toms
Administrator

37 F.R. 1364
January 28, 1972

PART 566—MANUFACTURER IDENTIFICATION

(Docket No. 71-11; Notice 2)

§ 566.1 Scope. This part requires manufacturers of motor vehicles, and of motor vehicle equipment to which a motor vehicle safety standard applies, to submit identifying information and a description of the items they produce.

§ 566.2 Purpose. The purpose of this part is to facilitate the regulation of manufacturers under the National Traffic and Motor Vehicle Safety Act, and to aid in establishing a code numbering system for all regulated manufacturers.

§ 566.3 Application. This part applies to all manufacturers of motor vehicles, and to manufacturers of motor vehicle equipment, other than tires, to which a motor vehicle safety standard applies (hereafter referred to as "covered equipment").

§ 566.4 Definitions. All terms defined in the Act and the rule and standards issued under its authority are used as defined therein. Specifically, "incomplete vehicle," "intermediate manufacturer," and "final-stage manufacturer" are used as defined in Part 568, Vehicles Manufactured in Two or More Stages.

§ 566.5 Requirements. Each manufacturer of motor vehicles, and each manufacturer of covered equipment, shall furnish the information specified in paragraphs (a) through (c) of this section to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

(a) Full individual, partnership, or corporate name of the manufacturer.

(b) Residence address of the manufacturer and State of incorporation if applicable.

(c) Description of each type of motor vehicle or of covered equipment manufactured by the manufacturer, including for motor vehicles, the approximate ranges of gross vehicle weight ratings for each type.

(1) Except as noted below, the description may be of general types, such as "passenger cars" or "brake fluid."

(2) In the case of multipurpose passenger vehicles, trucks, and trailers, the description shall be specific enough also to indicate the types of use for which the vehicles are intended, such as "tank trailer," "motor home", or "cargo van."

(3) In the case of motor vehicles produced in two or more stages, if the manufacturer is an incomplete vehicle manufacturer, the description shall so state and include a description indicating the stage of completion of the vehicle and, where known, the types of use for which the vehicle is intended.

EXAMPLE: "Incomplete vehicle manufacturer—Chassis-cab intended for completion as van-type truck."

If the manufacturer is an intermediate manufacturer, or a final stage manufacturer, the description shall so state and include a brief description of the work performed.

EXAMPLE: "Multipurpose passenger vehicles: Motor homes with GVWR from 8,000 to 12,000 pounds. Final-stage manufacturer—add body to bare chassis."

§ 566.6 Submittal of information. Each manufacturer required to submit information under § 566.4 shall submit the information not later than February 1, 1972. After that date, each person who begins to manufacture a type of motor vehicle or covered equipment for which he has not submitted the required information shall submit the information specified in paragraphs (a) through (c) of § 566.4 not later than 30 days after he begins manufacture. Each manufacturer who has submitted required information shall keep his entry current, accurate and complete by submitting revised information not later than 30 days after the relevant changes in his business occur.

36 F.R. 20977

November 2, 1981

PART 566—MANUFACTURER IDENTIFICATION

(Docket No. 71-11; Notice 2)

§ 566.1 Scope. This part requires manufacturers of motor vehicles, and of motor vehicle equipment to which a motor vehicle safety standard applies, to submit identifying information and a description of the items they produce.

§ 566.2 Purpose. The purpose of this part is to facilitate the regulation of manufacturers under the National Traffic and Motor Vehicle Safety Act, and to aid in establishing a code numbering system for all regulated manufacturers.

§ 566.3 Application. This part applies to all manufacturers of motor vehicles, and to manufacturers of motor vehicle equipment, other than tires, to which a motor vehicle safety standard applies (hereafter referred to as "covered equipment").

§ 566.4 Definitions. All terms defined in the Act and the rule and standards issued under its authority are used as defined therein. Specifically, "incomplete vehicle," "intermediate manufacturer," and "final-stage manufacturer" are used as defined in Part 568, Vehicles Manufactured in Two or More Stages.

§ 566.5 Requirements. Each manufacturer of motor vehicles, and each manufacturer of covered equipment, shall furnish the information specified in paragraphs (a) through (c) of this section to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

(a) Full individual, partnership, or corporate name of the manufacturer.

(b) Residence address of the manufacturer and State of incorporation if applicable.

(c) Description of each type of motor vehicle or of covered equipment manufactured by the manufacturer, including for motor vehicles, the approximate ranges of gross vehicle weight ratings for each type.

(1) Except as noted below, the description may be of general types, such as "passenger cars" or "brake fluid."

(2) In the case of multipurpose passenger vehicles, trucks, and trailers, the description shall be specific enough also to indicate the types of use for which the vehicles are intended, such as "tank trailer," "motor home", or "cargo van."

(3) In the case of motor vehicles produced in two or more stages, if the manufacturer is an incomplete vehicle manufacturer, the description shall so state and include a description indicating the stage of completion of the vehicle and, where known, the types of use for which the vehicle is intended.

EXAMPLE: "Incomplete vehicle manufacturer—Chassis-cab intended for completion as van-type truck."

If the manufacturer is an intermediate manufacturer, or a final stage manufacturer, the description shall so state and include a brief description of the work performed.

EXAMPLE: "Multipurpose passenger vehicles: Motor homes with GVWR from 8,000 to 12,000 pounds. Final-stage manufacturer—add body to bare chassis."

§ 566.6 Submittal of information. Each manufacturer required to submit information under § 566.4 shall submit the information not later than February 1, 1972. After that date, each person who begins to manufacture a type of motor vehicle or covered equipment for which he has not submitted the required information shall submit the information specified in paragraphs (a) through (c) of § 566.4 not later than 30 days after he begins manufacture. Each manufacturer who has submitted required information shall keep his entry current, accurate and complete by submitting revised information not later than 30 days after the relevant changes in his business occur.

36 F.R. 20977

November 2, 1981

PREAMBLE TO AMENDMENT TO PART 566—MANUFACTURER IDENTIFICATION

(Docket No. 71-11; Notice 4)

This notice amends Part 566 in Title 49, Code of Federal Regulations, to provide for the coverage of "incomplete vehicles," as defined in Part 568, Vehicles Manufactured in Two or More Stages. A notice of proposed rulemaking on this subject was published on November 2, 1971 (36 F.R. 20987). No comments on the proposed amendment were received, and the amendment is adopted as proposed.

Part 566, published on November 2, 1971 (36 F.R. 20977), requires manufacturers of motor vehicles and of motor vehicle equipment other than tires to which a motor vehicle safety standard applies to submit identifying information and a description of the items which they produce. In responding to a comment on the proposed regulation from an incomplete vehicle manufacturer, it was noted that while the regulation clearly covers intermediate and final-stage manufacturers (as defined in Part 568) it makes no reference to incomplete vehicle manufacturers. This amendment is intended to clarify this ambiguity by specifically providing for coverage of incomplete vehicles.

The incomplete vehicle manufacturer stated that he was unaware of the final use of his light truck vehicles and requested that he be permitted to submit a brief description of the incomplete vehicle expressed in the terminology of the industry as an alternative to the description in terms of final use. This method for incomplete vehicle manufacturers has been found acceptable, and the NHTSA accordingly grants this request.

In consideration of the foregoing, the NHTSA adopts amendments to Part 566 of Title 49, Code of Federal Regulations

Effective date: February 1, 1972.

This amendment is issued under the authority of sections 103, 108, 112 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1397, 1401, 1407, and the delegation of authority at 49 CFR 1.51.

Issued on January 24, 1972.

Douglas W. Toms
Administrator

37 F.R. 1364
January 28, 1972

PREAMBLE TO PART 567—CERTIFICATION

Regulations for the certification labeling of motor vehicles and motor vehicle equipment, and the provision of identifying information on the label, were issued under sections 112, 114, and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1401, 1403, 1407) by the Federal Highway Administrator and published in the *Federal Register* on January 24, 1969 (34 F.R. 1147). In a notice published on April 29, 1969, (34 F.R. 7031) it was proposed to make certain amendments to those regulations. This amendment to the regulations is based on that proposal.

The notice proposed that sections 367.7 and 367.8, relating to manufacturers and distributors of motor vehicle equipment, be revoked, pending further study of the distribution patterns and the needs of the motor vehicle equipment industry. No adverse comments to that proposal were received. Those two sections are accordingly being revoked with a view to the future issuance of regulations relating to the particular industries whose products are covered by equipment standards. Manufacturers and distributors of motor vehicle equipment must, however, continue to meet the certification requirements of section 114 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1403) as amplified by notice in the *Federal Register* of November 4, 1967 (32 F.R. 15444).

Clarifying language was proposed by the notice adding the phrase "(except chassis-cabs)" to section 367.4(a), and substituting the phrase "door edge that meets the door latch post" in section 367.4(c). A sentence was proposed for addition to section 367.4(g)(1), requiring the name of a person, other than the manufacturer, who affixes a label on an imported vehicle to be shown on the label. No adverse comments were received on these proposals, and they are incorporated into the rule as issued.

It was proposed to delete the reference to the use of tools in section 367.4(b), so that the subsection would read: "The label shall be permanently affixed in such a manner that it cannot be removed without destroying it." Some comments have indicated uncertainty as to the types of label that are permitted by this section. It is intended that the label be affixed so as not to be removable without damage. The purpose is to make sure that a label cannot be easily and undetectably transferred to another vehicle, and to provide that, within this requirement, manufacturers would have discretion in choice of material and adhesive method. In order to clarify the requirement, the words "or defacing" are inserted after "destroying". Several inquiries were directed specifically to the adequacy of riveted labels. This amendment permits riveting since it has been determined to be a generally satisfactory method of affixing the label.

One comment noted that, particularly in some foreign countries, assembly of a vehicle may be performed by a subsidiary corporation controlled by a parent that is the generally known "name-plate" company. It was suggested that the name of the parent corporation should be allowable on the label. The suggestion has been determined to have merit, in that no important purpose is served by requiring the name of a lesser-known subsidiary corporation on the label, and language permitting the use of a parent corporation's name is added to section 367.4(g)(1).

In order to allow exporting and importing manufacturers to indicate the country to which the word "Federal" refers, a sentence is added to section 367.4(g)(3) permitting the insertion of "U.S." or "U.S.A." before the word "Federal" in the conformity statement.

One petitioner suggested permitting the insertion of the model year before the word "vehicle" in the conformity statement, so that it would read "This 1970 vehicle conforms . . .", in the

case of a vehicle manufactured in late 1969. The requirement of stating the month and year of manufacture on the label is intended to eliminate confusion caused by model years that do not match calendar years, and that may mislead consumers as to the standards that are applicable. The manufacturer or dealer is free to indicate the model year of the vehicle by other labels, or any means that do not involve the certification label, and therefore it is not necessary to allow insertion of this possibly confusing additional date.

Objections were made to the requirement of color contrast on the label, and to the requirement of stating the actual manufacturer's name rather than that of a distributor under a "private brand" label. Similar comments were made and rejected at previous stages of rulemaking. Both of these requirements are important aids to enforcement where rapid inspection of large numbers of vehicles must be made.

One comment suggested that it would be misleading for a manufacturer to certify that the vehicle "conforms" to applicable standards, since the manufacturer has no control over the vehicle after it leaves his hands, and proposed that the certification be limited to the statement that the vehicle conformed at the time it was delivered to a distributor or dealer. The requirement for certification is not, however, limited to manufacturers, but extends to all distributors and importers as well. These parties satisfy this requirement by allowing the certification label to remain affixed to the vehicle. A distributor who alters a vehicle so that it does not conform to the manufacturer's certification must certify that the vehicle as altered meets applicable standards or he is subject to penalties under the Act. A dealer who sells a vehicle after altering it so that it does not conform would be subject to penalties under the Act, and prior parties would not be held responsible for the dealer's alterations. Any alterations that came about after a vehicle had been sold to a user would not be relevant to the question of conformity to applicable standards, as provided by section 108(b) (1) of the Act.

One comment raised the question of who should certify a vehicle such as a boat trailer that is

shipped complete but in unassembled form by its fabricator, such that it can be easily assembled without special equipment. The fabricator obviously has the technical knowledge on which certification should be based, but the subsequent assembler may be viewed as the "manufacturer" of the vehicle within the meaning of the Act. This question is part of the larger area of kits for the assembly of new vehicles or the renovation or alteration of existing ones. It is expected that separate regulations will be issued concerning standards applicable to such assemblers and their certification. As an interim measure, it has been determined that the purposes of the Act would be served by allowing the fabricator the option of treating itself as the certifying manufacturer under section 114 of the Act and affixing the label in a manner such that it will conform when the vehicle is assembled. Language to that effect is added to section 367.4(g) (1).

In section 367.4(e), describing the label location for motorcycles, the words "except the steering system" are added to the final phrase, "in a location such that it is easily readable without moving any part of the vehicle", in order to allow a location on the steering post that may be obscured when the steering system is turned to a certain position.

Effective date. Since these amendments do not impose substantial additional burdens relative to the regulations as previously issued, this part as amended shall continue to be effective for all motor vehicles manufactured on or after September 1, 1969.

In consideration of the foregoing, 49 CFR Part 367, Certification, is amended to read as set forth below. This amendment is issued under the authority of sections 112, 114, and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1401, 1403, 1407) and the delegation of authority from the Secretary of Transportation to the Federal Highway Administrator, 49 CFR § 1.4(c).

Issued on July 7, 1969.

F. C. Turner
Federal Highway Administrator

PREAMBLE TO PART 567—CERTIFICATION

Regulations for the certification labeling of motor vehicles and motor vehicle equipment, and the provision of identifying information on the label, were issued under sections 112, 114, and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1401, 1403, 1407) by the Federal Highway Administrator and published in the *Federal Register* on January 24, 1969 (34 F.R. 1147). In a notice published on April 29, 1969, (34 F.R. 7031) it was proposed to make certain amendments to those regulations. This amendment to the regulations is based on that proposal.

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shipped complete but in unassembled form by its fabricator, such that it can be easily assembled without special equipment. The fabricator obviously has the technical knowledge on which certification should be based, but the subsequent assembler may be viewed as the "manufacturer" of the vehicle within the meaning of the Act. This question is part of the larger area of kits for the assembly of new vehicles or the renovation or alteration of existing ones. It is expected that separate regulations will be issued concerning standards applicable to such assemblers and their certification. As an interim measure, it has been determined that the purposes of the Act would be served by allowing the fabricator the option of treating itself as the certifying manufacturer under section 114 of the Act and affixing the label in a manner such that it will conform when the vehicle is assembled. Language to that effect is added to section 367.4(g)(1).

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Issued on July 7, 1969.

F. C. Turner
Federal Highway Administrator

Sec.		367.5	Requirements for manufacturers of chassis-cabs.	
367.1	Purpose and scope.			
367.2	Application.	367.6	Requirements for distributors of motor vehicles.	
367.3	Definitions.			
367.4	Requirements for manufacturers of motor vehicles.			34 F.R. 11360 July 9, 1969

Effective: September 1, 1969

Sec.		
367.1	Purpose and scope.	367.5 Requirements for manufacturers of chassis-cabs.
367.2	Application.	367.6 Requirements for distributors of motor vehicles.
367.3	Definitions.	
367.4	Requirements for manufacturers of motor vehicles.	

34 F.R. 11360
July 9, 1969

PREAMBLE TO PART 567—CERTIFICATION

(Dockets No. 70-6, 70-8, and 70-15)

(Revised and reissued April 8, 1971)

This notice adopts a new Part 568 in Title 49, Code of Federal Regulations, to require the furnishing of information relevant to a vehicle's conformity to motor vehicle safety standards, and makes complementary changes in the certification regulations in Part 567 of that title and in Part 571. It also amends the certification regulations with respect to the manufacturer whose name must appear on the label for trailers and with respect to the information that must appear on the label for all vehicles. Notices of proposed rulemaking on these subjects were published on March 17, 1970 (35 F.R. 4639), May 1, 1970 (35 F.R. 6969), and June 13, 1970 (35 F.R. 9293). The comments received in response to these notices, and the statements made at the public meeting on vehicles manufactured in two or more stages (September 18, 1970; 35 F.R. 13139) have been considered in this issuance of a final rule.

The amendments to the certification regulations proposed on May 1, 1970 (35 F.R. 6969) are adopted as proposed, except that GCWR information is not required.

The most frequently stated objection to the amendments was that the providing of GVWR and GAWR for passenger cars gives the purchaser information that is already provided by the label required by Standard No. 110. Although the information is to some extent duplicative, in that if the consumer knew the vehicle's unloaded weight, he could use the information required by Standard No. 110 to estimate the gross vehicle weight, the gross weight information is more easily usable for regulatory pur-

poses. Requirements of certain standards may in the future apply to a passenger car according to its weight class.

Several comments stated that the inclusion of weight information on the certification label would make the labels awkwardly large. Since only two items would be added to the label, these comments are considered to be without merit.

As amended, the regulation requires a certification label on vehicles sold directly to users, as well as on those sold to dealers and distributors. The Administration regards this as useful to the consumer and necessary to efficient enforcement of the standards. The authority for requiring information labels is found in sections 112 and 119 of the Act, as well as in section 114.

The requirements for the certification label for multi-stage vehicles, discussed above, include the vehicle type. Under Part 567 as presently in force, the type need only be shown for multi-purpose passenger vehicles. This information has been determined to be useful for enforcement and other information purposes, and Part 567 is therefore hereby amended to require the vehicle type to appear on all labels.

Issued on April 8, 1971.

Douglas W. Toms
Acting Administrator

36 F.R. 7054
April 14, 1971

PREAMBLE TO PART 567—CERTIFICATION

(Dockets No. 70-6, 70-8, and 70-15)

(Revised and reissued April 8, 1971)

This notice adopts a new Part 568 in Title 49, Code of Federal Regulations, to require the furnishing of information relevant to a vehicle's conformity to motor vehicle safety standards, and makes complementary changes in the certification regulations in Part 567 of that title and in Part 571. It also amends the certification regulations with respect to the manufacturer whose name must appear on the label for trailers and with respect to the information that must appear on the label for all vehicles. Notices of proposed rulemaking on these subjects were published on March 17, 1970 (35 F.R. 4639), May 1, 1970 (35 F.R. 6969), and June 13, 1970 (35 F.R. 9293). The comments received in response to these notices, and the statements made at the public meeting on vehicles manufactured in two or more stages (September 18, 1970; 35 F.R. 13139) have been considered in this issuance of a final rule.

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Issued on April 8, 1971.

Douglas W. Toms
Acting Administrator

36 F.R. 7054
April 14, 1971

PREAMBLE TO AMENDMENT TO PART 567—CERTIFICATION

and

(Denial of Petitions to Part 568—Vehicles Manufactured in Two or More Stages)

(Docket No. 70-8)

Part 567 of Title 49, Code of Federal Regulations, certification requirements for motor vehicles, as amended, and Part 568, establishing requirements for vehicles manufactured in two or more stages, were published on April 14, 1971 (36 F.R. 7054 *et seq.*). Thereafter, pursuant to 49 CFR 553.35 (35 F.R. 5119), petitions for reconsideration were filed by American Motors Corporation, Chrysler Corporation, Ford Motor Company, General Motors Corporation, and International Harvester Company. On June 22, 1971, a notice proposing the addition of a vehicle identification number to the certification label required for vehicles manufactured in two or more stages was published in the *Federal Register* (Docket No. 71-14; Notice 1, 36 F.R. 11868).

This notice of Reconsideration and Amendment represents the action taken by this agency in response to the petitions and the notice of June 22.

1. *Effective date.* Ford and International Harvester petitioned that the effective date of Part 568 be delayed at least until July 1, 1972, to permit a more orderly development and implementation of systems and procedures pertaining to the documentation requirements of the regulation. Neither petitioner has argued that it is impossible or impracticable for it to comply with Part 568 by January 1, 1972, nor has any other petition been received on this subject. Timely implementation of these regulations is important, because of the need to have the required information in the hands of final-stage manufacturers in advance of the effective date of standards applicable to these types of vehicles. The Administrator therefore has denied the petitions for extension of the effective date.

1. *GVWR; GAWR.* International Harvester stated that if an incomplete vehicle manufacturer installs tires supplied by the customer or ships the vehicle with temporary tires that will be replaced by the customer, the manufacturer should be permitted to base his GVWR and GAWR ratings on the capacity of the vehicle's structure and to disregard the capacity of customer-installed tires. The company therefore requested an interpretation, or revision, of the regulation to exclude tire ratings in the computation of GAWR and GVWR, so long as the exclusion is indicated on the certification label or the document furnished to the final-stage manufacturer.

The NHTSA cannot accept the position that the weight ratings should not be related to the tires on the vehicle. To the contrary, the newly proposed motor vehicle safety standard on Tire and Rim Selection and Rim Performance for vehicles other than passenger cars (36 F.R. 14273, August 3, 1971) would require each completed vehicle to have tires whose load ratings reflect the gross axle weight ratings of the vehicle. If an incomplete vehicle manufacturer installs tires that are intended to be used on the vehicle as completed (whether or not they are "supplied by the customer"), the weight ratings of the vehicle should reflect the capacities of those tires. On the other hand, it is entirely permissible for an incomplete vehicle manufacturer to install "temporary" tires for shipment purposes only, if he provides full information on the subject in the document required to be furnished with the incomplete vehicle under Part 568.

Counsel for the Trailer Manufacturers Association have pointed out that some trailer manufacturers provide different sizes of tires as a customer

option, and have requested permission to state different weight rating values on the label for each tire size that is offered. This request may have merit, since it may not be practicable in some cases for a manufacturer to anticipate which tires will be used on a particular vehicle, or to rely on dealers to affix permanent labels that reflect the tires ultimately selected. A notice of proposed rulemaking that would allow manufacturers to provide several values for GVWR and GAWR, along with tire sizes for each, is published in this issue of the *Federal Register*.

American Motors petitioned for withdrawal of GVWR and GAWR from passenger car certification labels on the grounds that the terms are ambiguous and misleading. Ford also petitioned for a change in the GAWR-GVWR usage, stating that the present placard required on passenger cars by Standard No. 110 makes GAWR and GVWR unnecessary for passenger cars and that a similar reference to vehicle capacity weight should be substituted for GAWR and GVWR in the documents and labels required on multipurpose passenger vehicles, trucks, and buses. American interprets GVWR to be the equivalent of maximum loaded vehicle weight, as well as the equivalent of the sum of unloaded vehicle weight and vehicle capacity weight.

The definitions of gross vehicle weight rating and gross axle weight rating have been developed in order to provide useful and reasonably flexible methods for manufacturers to rate the overall capacities of their vehicles and axle systems respectively, on the basis of which the vehicles will be tested for conformity to various standards. The existing concept of "maximum loaded vehicle weight" has been found deficient for some purposes, because it relies on a complex definition of "curb weight" (found in Standard No. 110, 49 CFR 571.21) that combines both arbitrary and specific elements. It is this agency's intent to allow manufacturers, in stating GVWR and GAWR, to select values that represent the overall performance capabilities of their vehicles as delivered, without necessarily varying the values to allow for minor weight variations in a particular line of vehicles. To preclude the possibility of understating a vehicle's GVWR, however, the certification regulation is herewith amended to

provide that the stated GVWR shall not be less than the sum of unloaded vehicle weight, rated cargo load, and 150 pounds times the vehicle's designated seating capacity.

3. *Certification responsibility of the incomplete vehicle manufacturer.* General Motors has petitioned for a revision of Part 568 that would "distinguish between final-stage manufacturers who merely add a van or a work unit to the rear of a chassis-cab, and those manufacturers who perform material alterations to the incomplete vehicle in the process of manufacturing a completed vehicle." In the former case, under the GM scheme, the incomplete vehicle manufacturer would certify that the vehicles complied with all Federal standards except those (such as No. 108) where final compliance depends upon the work performed by the add-on type manufacturers. The latter would then certify that he had made no alterations to the incomplete vehicle other than _____ (describing the work performed), and that the vehicle complied with _____ (standards not certified by the incomplete vehicle manufacturer). GM believes that the incomplete vehicle manufacturer could be required by regulation to provide specific items of information about its product (e.g., maximum height of center of gravity, regarding Standard No. 105) to enable the final-stage manufacturer to add a van or work unit without causing a nonconformity. In the second case, under the GM scheme, the material-alteration type manufacturer would certify the entire vehicle, and could obtain from the incomplete vehicle manufacturer all data needed for certification.

There is considerable similarity between the GM scheme and Part 568. The manufacturer of a vehicle complete except for the addition of a van or work unit, under Part 568, provides a statement (568.4(a)(7)(i)) that the vehicle when completed will conform to specified standards if no alterations are made in identified components of the incomplete vehicle. He also provides an appropriate statement, according to 568.4(a)(7)(ii) or (iii), as to the remaining standards. On the basis of such statements, and the work he performs, the final stage manufacturer certifies the complete vehicle.

PREAMBLE TO AMENDMENT TO PART 567—CERTIFICATION**and****(Denial of Petitions to Part 568—Vehicles Manufactured in Two or More Stages)****(Docket No. 70-8)**

Part 567 of Title 49, Code of Federal Regulations, certification requirements for motor vehicles, as amended, and Part 568, establishing requirements for vehicles manufactured in two or more stages, were published on April 14, 1971 (36 F.R. 7054 *et seq.*). Thereafter, pursuant to 49 CFR 553.35 (35 F.R. 5119), petitions for reconsideration were filed by American Motors Corporation, Chrysler Corporation, Ford Motor Company, General Motors Corporation, and International Harvester Company. On June 22, 1971, a notice proposing the addition of a vehicle identification number to the certification label required for vehicles manufactured in two or more stages was published in the *Federal Register* (Docket No. 71-14; Notice 1, 36 F.R. 11868).

This notice of Reconsideration and Amendment represents the action taken by this agency in response to the petitions and the notice of June 22.

1. *Effective date.* Ford and International Harvester petitioned that the effective date of Part 568 be delayed at least until July 1, 1972, to permit a more orderly development and implementation of systems and procedures pertaining to the documentation requirements of the regulation. Neither petitioner has argued that it is impossible or impracticable for it to comply with Part 568 by January 1, 1972, nor has any other petition been received on this subject. Timely implementation of these regulations is important, because of the need to have the required information in the hands of final-stage manufacturers in advance of the effective date of standards applicable to these types of vehicles. The Administrator therefore has denied the petitions for extension of the effective date.

1. *GVWR; GAWR.* International Harvester stated that if an incomplete vehicle manufacturer installs tires supplied by the customer or ships the vehicle with temporary tires that will be replaced by the customer, the manufacturer should be permitted to base his GVWR and GAWR ratings on the capacity of the vehicle's structure and to disregard the capacity of customer-installed tires. The company therefore requested an interpretation, or revision, of the regulation to exclude tire ratings in the computation of GAWR and GVWR, so long as the exclusion is indicated on the certification label or the document furnished to the final-stage manufacturer.

The NHTSA cannot accept the position that the weight ratings should not be related to the tires on the vehicle. To the contrary, the newly proposed motor vehicle safety standard on Tire and Rim Selection and Rim Performance for vehicles other than passenger cars (36 F.R. 14273, August 3, 1971) would require each completed vehicle to have tires whose load ratings reflect the gross axle weight ratings of the vehicle. If an incomplete vehicle manufacturer installs tires that are intended to be used on the vehicle as completed (whether or not they are "supplied by the customer"), the weight ratings of the vehicle should reflect the capacities of those tires. On the other hand, it is entirely permissible for an incomplete vehicle manufacturer to install "temporary" tires for shipment purposes only, if he provides full information on the subject in the document required to be furnished with the incomplete vehicle under Part 568.

Counsel for the Trailer Manufacturers Association have pointed out that some trailer manufacturers provide different sizes of tires as a customer

option, and have requested permission to state different weight rating values on the label for each tire size that is offered. This request may have merit, since it may not be practicable in some cases for a manufacturer to anticipate which tires will be used on a particular vehicle, or to rely on dealers to affix permanent labels that reflect the tires ultimately selected. A notice of proposed rulemaking that would allow manufacturers to provide several values for GVWR and GAWR, along with tire sizes for each, is published in this issue of the *Federal Register*.

American Motors petitioned for withdrawal of GVWR and GAWR from passenger car certification labels on the grounds that the terms are ambiguous and misleading. Ford also petitioned for a change in the GAWR-GVWR usage, stating that the present placard required on passenger cars by Standard No. 110 makes GAWR and GVWR unnecessary for passenger cars and that a similar reference to vehicle capacity weight should be substituted for GAWR and GVWR in the documents and labels required on multipurpose passenger vehicles, trucks, and buses. American interprets GVWR to be the equivalent of maximum loaded vehicle weight, as well as the equivalent of the sum of unloaded vehicle weight and vehicle capacity weight.

The definitions of gross vehicle weight rating and gross axle weight rating have been developed in order to provide useful and reasonably flexible methods for manufacturers to rate the overall capacities of their vehicles and axle systems respectively, on the basis of which the vehicles will be tested for conformity to various standards. The existing concept of "maximum loaded vehicle weight" has been found deficient for some purposes, because it relies on a complex definition of "curb weight" (found in Standard No. 110, 49 CFR 571.21) that combines both arbitrary and specific elements. It is this agency's intent to allow manufacturers, in stating GVWR and GAWR, to select values that represent the overall performance capabilities of their vehicles as delivered, without necessarily varying the values to allow for minor weight variations in a particular line of vehicles. To preclude the possibility of understating a vehicle's GVWR, however, the certification regulation is herewith amended to

provide that the stated GVWR shall not be less than the sum of unloaded vehicle weight, rated cargo load, and 150 pounds times the vehicle's designated seating capacity.

3. *Certification responsibility of the incomplete vehicle manufacturer.* General Motors has petitioned for a revision of Part 568 that would "distinguish between final-stage manufacturers who merely add a van or a work unit to the rear of a chassis-cab, and those manufacturers who perform material alterations to the incomplete vehicle in the process of manufacturing a completed vehicle." In the former case, under the GM scheme, the incomplete vehicle manufacturer would certify that the vehicles complied with all Federal standards except those (such as No. 108) where final compliance depends upon the work performed by the add-on type manufacturers. The latter would then certify that he had made no alterations to the incomplete vehicle other than _____ (describing the work performed), and that the vehicle complied with _____ (standards not certified by the incomplete vehicle manufacturer). GM believes that the incomplete vehicle manufacturer could be required by regulation to provide specific items of information about its product (e.g., maximum height of center of gravity, regarding Standard No. 105) to enable the final-stage manufacturer to add a van or work unit without causing a nonconformity. In the second case, under the GM scheme, the material-alteration type manufacturer would certify the entire vehicle, and could obtain from the incomplete vehicle manufacturer all data needed for certification.

There is considerable similarity between the GM scheme and Part 568. The manufacturer of a vehicle complete except for the addition of a van or work unit, under Part 568, provides a statement (568.4(a)(7)(i)) that the vehicle when completed will conform to specified standards if no alterations are made in identified components of the incomplete vehicle. He also provides an appropriate statement, according to 568.4(a)-(7)(ii) or (iii), as to the remaining standards. On the basis of such statements, and the work he performs, the final stage manufacturer certifies the complete vehicle.

The primary difficulty with the GM scheme is that it is not adequate for such standards as No. 121, *Air Brake Systems*, where end conformance depends upon work performed by both the incomplete vehicle and final-stage manufacturers. GM would not, in that instance, certify conformance as to Standard No. 121, nor would it provide information sufficient for the final-stage manufacturer to produce a conforming vehicle. The scheme with respect to material-alteration type manufacturers as well would not appear to provide as much assistance to final-stage manufacturers as that adopted under Part 568. Traditionally, the final-stage manufacturer is an entity whose resources are limited. The thrust of Part 568 is to place some legal responsibility on the incomplete vehicle manufacturer to supply the final-stage manufacturer with data and conditions under which the completed vehicle will comply, and most importantly, to allocate a fair share of the legal responsibility for conformity to the incomplete vehicle manufacturer. GM's petition is therefore denied.

Chrysler also wishes to split the certification responsibility, and petitioned for an amendment requiring the incomplete vehicle manufacturer to "list . . . only those standards to which full compliance has been achieved" Otherwise, Chrysler feels it has no alternative other than periodic use of the general statement allowed by § 568.4(a)(7)(iii) that conformity with a standard is not substantially determined by the design of the incomplete vehicle, and that the incomplete vehicle manufacturer makes no representation as to conformity of the incomplete vehicle with such standard.

Since alternative (iii), above, is partially a factual representation, Chrysler may not provide such a statement where conformance with a standard is substantially determined by the design of the incomplete vehicle. It is up to the

incomplete vehicle manufacturer to decide which type of statement accurately reflects the condition of compliance, and Chrysler may use the general statement in those instances where it is appropriate. Chrysler's petition is therefore denied.

4. *Sequence of required data.* Ford petitioned that Part 567 be amended to make the sequence of the data required on certification labels permanently affixed to completed vehicles consistent with that on the document to be supplied by incomplete vehicle manufacturers (Part 568). Ford's reason for this request is that it would simplify computer print-out of material if the same computer program could be used for both requirements.

Although this request has some technical merit, Ford is the only manufacturer who has commented on variances in data sequence. This agency understands that other manufacturers have already ordered certification labels printed in the sequence required by Part 567, and deems it unfair to them to amend Part 567 at this time. Ford's request is therefore denied.

5. *Proposed VIN.* There were no objections to the proposal that a vehicle identification number be required for labels on vehicles manufactured in two or more stages, and the proposal is adopted.

In consideration of the foregoing changes are made in 49 CFR Part 567.

Effective date: January 1, 1972.

Issued on October 6, 1971.

Douglas W. Toms
Administrator

36 F.R. 19593
October 8, 1971

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incomplete vehicle manufacturer to decide which type of statement accurately reflects the condition of compliance, and Chrysler may use the general statement in those instances where it is appropriate. Chrysler's petition is therefore denied.

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Effective date: January 1, 1972.

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Administrator

36 F.R. 19593
October 8, 1971

PREAMBLE TO AMENDMENT TO PART 567—CERTIFICATION

(Docket No. 70-8; Notice 5)

This notice amends the Certification Regulations to allow vehicle manufacturers to list on the certification label more than one set of values for gross vehicle and gross axle weight ratings. It also allows school bus manufacturers to compute the vehicle's GVWR using 120 pounds to represent the weight of an occupant.

On April 14, 1971, (36 F.R. 7054), the certification regulations (49 CFR Part 567) were amended to provide for the furnishing of additional information on the certification label, and a new Part 568, "Vehicles Manufactured in Two or More Stages", was established. On October 8, 1971, (36 F.R. 9593) certain amendments to Part 567 and Part 568 were issued in response to petitions for reconsideration received concerning the amendment of April 14, 1971. Also on October 8, 1971, a notice was issued (36 F.R. 19617) proposing to allow multiple GVWR and GAWR listings to be used in certain circumstances. This notice is issued in response to petitions for reconsideration concerning the amendment of October 8, 1971, and comments concerning the notice of proposed rulemaking of that date.

The proposal of October 8, 1971, allowing multiple GVWR and GAWR listings to be placed on the certification label is adopted as proposed. Comments received by the NHTSA were generally in favor of this amendment. One commentator stated that the proposal would not be practical for large trucks. However, the requirement is only permissive, and it will provide a useful alternative to manufacturers of various other types of vehicles. It is therefore adopted as proposed.

The final rule published in the October 8 notice amended sections 567.4(g)(3) and 567.5(a)(5) to provide for GVWR computation using a multiplier of 150 pounds times the vehicle's designated seating capacity. This agency has received petitions for reconsideration of this

provision from the School Bus Manufacturers Institute and Blue Bird Body Company. Both suggested that the figure of 150 pounds is unrealistically high, because the maximum seating capacity of a school bus is based on three children sitting on each standard 39-inch seat. These petitions suggested that a 120-pound figure, found in the 1970 Revised Edition of *Minimum Standards for School Buses*, be used in computing the GVWR of school buses. The NHTSA agrees with these petitions, and the regulation is amended accordingly.

It has been brought to the attention of the NHTSA that on some vehicles it will be difficult to affix the required label in the designated location, because of space limitations. It was requested that the use of a multi-column label or a label in two parts be considered permissible under the regulation. One such request was answered in a letter interpretation to counsel for the Trailer Manufacturers Association, dated November 3, 1971. The substance of the agency's reply is repeated here for the benefit of all interested parties: The NHTSA adheres to the requirement in the certification regulation that the required information be listed "in the order shown," a requirement that since its issuance in September 1969 has been found to enhance the readability and usefulness of the label. However, there is no requirement that the listing be in one column, and as long as it appears in the order specified, multi-column labels or adjacent labels in two or more parts are permitted.

Some inquiries were received concerning the significance of the requirement for a vehicle identification number on the label of a vehicle manufactured in two or more stages (36 F.R. 19593, October 8, 1971). This VIN requirement is not new, as some persons apparently believed, but merely a continuation of the requirement contained in the original certification regulations

Effective: January 1, 1972

effective September 1, 1969 (34 F.R. 11360, July 9, 1969). The VIN requirement is not intended to change existing practices with respect to vehicle numbering.

In consideration of the foregoing, Part 567 of Title 49, Code of Federal Regulations, is hereby amended

Effective date: As these requirements impose no additional burdens on any person, and as implementation of these requirements as part of the general regulatory scheme is essential, good cause exists for an effective date less than 30 days from the day of publication. The amendments are accordingly effective on January 1, 1972.

This notice is issued pursuant to Sections 103, 112, 114, and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1401, 1403, 1407), and the delegation of authority at 49 CFR 1.51.

Issued on December 8, 1971.

Charles H. Hartman
Acting Administrator

36 F.R. 23571
December 10, 1971

PREAMBLE TO AMENDMENT TO PART 567—CERTIFICATION

(Docket No. 70-8; Notice 5)

This notice amends the Certification Regulations to allow vehicle manufacturers to list on the certification label more than one set of values for gross vehicle and gross axle weight ratings. It also allows school bus manufacturers to compute the vehicle's GVWR using 120 pounds to represent the weight of an occupant.

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provision from the School Bus Manufacturers Institute and Blue Bird Body Company. Both suggested that the figure of 150 pounds is unrealistically high, because the maximum seating capacity of a school bus is based on three children sitting on each standard 39-inch seat. These petitions suggested that a 120-pound figure, found in the 1970 Revised Edition of *Minimum Standards for School Buses*, be used in computing the GVWR of school buses. The NHTSA agrees with these petitions, and the regulation is amended accordingly.

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Issued on December 8, 1971.

Charles H. Hartman
Acting Administrator

36 F.R. 23571
December 10, 1971

PREAMBLE TO AMENDMENT TO PART 567—CERTIFICATION

(Docket No. 70-8; Notice 7)

The purpose of this notice is to allow manufacturers to specify a tire size on their certification label when they provide only one gross vehicle weight rating, or one gross axle weight rating for each axle, and do not list other optional tire sizes. The provisions of the Certification regulations dealing with gross vehicle weight rating and gross axle weight rating were published April 14, 1971 (36 F.R. 7054), and were amended on October 8, 1971 (36 F.R. 19593) and December 10, 1971 (36 F.R. 23572). In addition, the definition of gross axle weight rating (49 CFR 571.3) was amended February 12, 1972 (37 F.R. 3185).

As issued on April 14, 1971, the certification regulations required each manufacturer (final-stage manufacturers in the case of multi-stage vehicles) to include on his certification label a gross vehicle weight rating, and a gross axle weight rating for each axle. The assigned rating was to be made without reference to particular tires or other components on which the value was based. The amendment of December 10, 1971, modified this result to some extent by allowing a manufacturer, at his option, to list different weight ratings for various tire sizes, with the appropriate tire size listed for each rating.

In response to inquiries by interested persons, the agency has decided not to limit this option to cases of multiple tire sizes. By the amendment issued herewith, manufacturers are allowed

to list the appropriate tire size for both gross vehicle and axle weight ratings, even when only one rating is provided. With this information, subsequent manufacturers, distributors, dealers, and users who install or replace tires will be put on notice that the tires they mount on the vehicle might affect the weight ratings provided by the manufacturer.

This amendment also makes a minor correction in a paragraph reference in the regulations.

In light of the above, 49 CFR Part 567, "Certification," is amended . . .

Effective date: July 13, 1972.

As this amendment provides an optional method of compliance and imposes no additional burdens, it is found for good cause shown that an effective date less than 30 days from the day of issuance is in the public interest.

This notice is issued under the authority of sections 103, 112, 114, and 119 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1401, 1403, 1407, and the delegation of authority at 49 CFR 1.51.

Issued on July 6, 1972.

Douglas W. Toms
Administrator

37 F.R. 13696
July 13, 1972

PREAMBLE TO AMENDMENT TO PART 567—CERTIFICATION

(Docket No. 70-8; Notice 7)

The purpose of this notice is to allow manufacturers to specify a tire size on their certification label when they provide only one gross vehicle weight rating, or one gross axle weight rating for each axle, and do not list other optional tire sizes. The provisions of the Certification regulations dealing with gross vehicle weight rating and gross axle weight rating were published April 14, 1971 (36 F.R. 7054), and were amended on October 8, 1971 (36 F.R. 19593) and December 10, 1971 (36 F.R. 23572). In addition, the definition of gross axle weight rating (49 CFR 571.3) was amended February 12, 1972 (37 F.R. 3185).

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Issued on July 6, 1972.

Douglas W. Toms
Administrator

37 F.R. 13696
July 13, 1972

PREAMBLE TO AMENDMENT TO PART 567—CERTIFICATION

(Docket No. 72-27; Notice 2)

This notice establishes certification and labeling responsibilities for persons who alter "completed vehicles" after their certification as conforming to applicable motor vehicle safety standards. The requirements are based on those proposed in a notice of proposed rulemaking published October 25, 1972 (37 F.R. 22800).

Under the new requirements, a person who alters a completed vehicle, other than by the attachment, substitution, or removal of "readily attachable components", will be required to ascertain conformity to all applicable standards as of any date between the manufacture date of the completed vehicle and the manufacture date of the altered vehicle. That person will be required to affix a label (leaving the certification label in place) that identifies the alterer, the date of alteration, the date as of which conformity is determined, and any changes the alteration produces in either gross weight ratings or vehicle classification. A person who does not alter the vehicle, or who adds, substitutes, or removes only readily attachable components will be required to leave the certification label in place, but will not be required, unless the alteration invalidates the stated weight ratings, to provide an additional label. Distributors who do not alter the vehicle, or who alter it using only readily attachable components and do not invalidate the stated weight ratings will meet the certification requirements by leaving the certification label in place. The requirements will place persons who alter completed vehicles on the same basis as final-stage manufacturers, by allowing the former to choose as the date by which vehicle conformity is determined any date between the date on which the completed vehicle is manufactured and the date on which the vehicle is altered. Under previously existing statutory and regulatory provisions, alterers of vehicles were required to use

only the date of completion of the altered vehicle as the date by which conformity could be determined.

General Motors, Truck Body and Equipment Association, and Stutz Motor Car of America supported the proposal without qualification. Other comments generally approved the proposal with some suggested changes.

Several comments argued that the limiting concept of "readily attachable components", the addition, removal, or substitution of which does not create a requirement to affix a label, should not include "mirrors or tire and rim assemblies", as the language appears in §§ 567.6 and .7, and § 568.8. It was argued that these items directly affect the vehicle's conformity to the standards or the weight ratings, and should therefore not be alterable without, in effect, a recertification by the alterer. It was variously suggested that explicit inclusion of these items as examples of readily attachable components might cause a safety problem, a false certification, or a misleading of persons such as dealers as to their responsibilities under the Act and the standards.

The NHTSA does not accept these arguments. The provisions for alteration of vehicles, like the larger certification scheme of which they are a part, are intended to reflect the realities of manufacture and distribution. It is a fact that the substitution of tires by a dealer takes place in a substantial fraction of all vehicle sales. Moreover, a large proportion of the components that are in fact frequently altered at the dealer level are directly affected by standards: mirrors, tires, rims, lighting accessories, bumper guards and attachments, windshield wipers and washers, hub caps and wheel nuts, seat belts, and interior components such as air conditioners or radios that come within the head impact area, to name

a few. If these items were not included in the concept of readily attachable components, for which an alteration label is not required, it is safe to say that virtually every dealer in the country would be affixing labels to many of the vehicles he sold.

It was not the intent of this agency to create such a manifold expansion of labeling requirements. The altered-vehicle label is designed primarily to reach those cases where a completed vehicle is significantly altered, in a manner, and with components, not provided by the original manufacturer. The substitution or addition of parts such as tires, rims, and mirrors is a routine aspect of typical vehicle distribution systems, and the cost burden of affixing a permanent label to the vehicle has not been found to be justified in that situation. For these reasons the language of the regulation has in these respects been retained as proposed.

The requirement to keep a vehicle in conformity to the standards and the weight ratings applies throughout the chain of distribution regardless of any labeling requirements, and this agency has no intent of downgrading the importance of that requirement. The comments did reveal a justifiable concern of manufacturers for situations where the vehicle might be altered, as by substitution of tires, in a way that its stated weight ratings are no longer valid. Also, there may well be cases where a customer wants a vehicle to have lighter components for its intended purpose, and would accept lowered weight ratings. To deal with these cases, language has been added to sections 567.6 and .7, and 568.8, to require the affixing of an alteration label whenever any type of alteration is made that would invalidate the stated weight ratings.

American Motors and Jeep argued that requiring alterers to certify conformity discriminates against manufacturers' dealers. They pointed out that dealers, who generally alter vehicles before sale, are required to maintain conformity, while aftermarket installers of equipment, because the additions they make are to "used" vehicles, need not. They suggested that "special add-on accessories" be excepted from the requirements, that a new category of "Special Motorized Equipment" be created to which some

of the standards would not apply, that equipment standards be issued to cover aftermarket installers, and that highway safety program standards prohibit the alteration of vehicles such that they would not conform to the standards. These comments are not, in the view of this agency, within the scope of the rulemaking. Requests of this nature should be submitted as petitions for rulemaking, with supporting data, in accordance with the procedures of 49 CFR Part 553.

British Leyland suggested that an exemption to the labeling requirements be made for persons installing accessories which the original vehicle manufacturer makes available, and whose installation he knows will not affect vehicle conformity. The NHTSA expects that most accessories meeting this description will be readily attachable within the sense of the regulation, and no further labeling in these cases will be required. It should be noted that the category of "readily attachable components" cannot be sharply defined, and in any marginal case the NHTSA will accept the reasonable judgment of the parties concerned, especially where the original manufacturer and the alterer are in agreement. In cases where components of this type are not found to be readily attachable, the burden on the alterer to determine that the alteration does not destroy conformity is minimized, leaving him with essentially no more than the attachment of the alterer label.

Certain comments pointed out that while proposed sections 567.7 and 568.8 are not limited in their application to distributors, that limitation had been retained in section 567.6. The comments suggested that, as sections 567.7 and 568.8 applied to dealers, section 567.6 should likewise so apply. The substance of the suggestion has been adopted in the final rule, by modifying § 567.6 to apply to any person.

The Recreation Vehicle Institute (RVI) suggested that manufacturers of completed vehicles be required to supply a document when requested by a vehicle alterer, similar to that provided final-stage manufacturers, that advises alterers how to achieve or retain conformity. This suggestion has not been adopted. If a vehicle manufacturer wishes to provide information on the

PREAMBLE TO AMENDMENT TO PART 567—CERTIFICATION

(Docket No. 72-27; Notice 2)

This notice establishes certification and labeling responsibilities for persons who alter "completed vehicles" after their certification as conforming to applicable motor vehicle safety standards. The requirements are based on those proposed in a notice of proposed rulemaking published October 25, 1972 (37 F.R. 22800).

Under the new requirements, a person who alters a completed vehicle, other than by the attachment, substitution, or removal of "readily attachable components", will be required to ascertain conformity to all applicable standards as of any date between the manufacture date of the completed vehicle and the manufacture date of the altered vehicle. That person will be required to affix a label (leaving the certification label in place) that identifies the alterer, the date of alteration, the date as of which conformity is determined, and any changes the alteration produces in either gross weight ratings or vehicle classification. A person who does not alter the vehicle, or who adds, substitutes, or removes only readily attachable components will be required to leave the certification label in place, but will not be required, unless the alteration invalidates the stated weight ratings, to provide an additional label. Distributors who do not alter the vehicle, or who alter it using only readily attachable components and do not invalidate the stated weight ratings will meet the certification requirements by leaving the certification label in place. The requirements will place persons who alter completed vehicles on the same basis as final-stage manufacturers, by allowing the former to choose as the date by which vehicle conformity is determined any date between the date on which the completed vehicle is manufactured and the date on which the vehicle is altered. Under previously existing statutory and regulatory provisions, alterers of vehicles were required to use

only the date of completion of the altered vehicle as the date by which conformity could be determined.

General Motors, Truck Body and Equipment Association, and Stutz Motor Car of America supported the proposal without qualification. Other comments generally approved the proposal with some suggested changes.

Several comments argued that the limiting concept of "readily attachable components", the addition, removal, or substitution of which does not create a requirement to affix a label, should not include "mirrors or tire and rim assemblies", as the language appears in §§ 567.6 and .7, and § 568.8. It was argued that these items directly affect the vehicle's conformity to the standards or the weight ratings, and should therefore not be alterable without, in effect, a recertification by the alterer. It was variously suggested that explicit inclusion of these items as examples of readily attachable components might cause a safety problem, a false certification, or a misleading of persons such as dealers as to their responsibilities under the Act and the standards.

The NHTSA does not accept these arguments. The provisions for alteration of vehicles, like the larger certification scheme of which they are a part, are intended to reflect the realities of manufacture and distribution. It is a fact that the substitution of tires by a dealer takes place in a substantial fraction of all vehicle sales. Moreover, a large proportion of the components that are in fact frequently altered at the dealer level are directly affected by standards: mirrors, tires, rims, lighting accessories, bumper guards and attachments, windshield wipers and washers, hub caps and wheel nuts, seat belts, and interior components such as air conditioners or radios that come within the head impact area, to name

a few. If these items were not included in the concept of readily attachable components, for which an alteration label is not required, it is safe to say that virtually every dealer in the country would be affixing labels to many of the vehicles he sold.

It was not the intent of this agency to create such a manifold expansion of labeling requirements. The altered-vehicle label is designed primarily to reach those cases where a completed vehicle is significantly altered, in a manner, and with components, not provided by the original manufacturer. The substitution or addition of parts such as tires, rims, and mirrors is a routine aspect of typical vehicle distribution systems, and the cost burden of affixing a permanent label to the vehicle has not been found to be justified in that situation. For these reasons the language of the regulation has in these respects been retained as proposed.

The requirement to keep a vehicle in conformity to the standards and the weight ratings applies throughout the chain of distribution regardless of any labeling requirements, and this agency has no intent of downgrading the importance of that requirement. The comments did reveal a justifiable concern of manufacturers for situations where the vehicle might be altered, as by substitution of tires, in a way that its stated weight ratings are no longer valid. Also, there may well be cases where a customer wants a vehicle to have lighter components for its intended purpose, and would accept lowered weight ratings. To deal with these cases, language has been added to sections 567.6 and .7, and 568.8, to require the affixing of an alteration label whenever any type of alteration is made that would invalidate the stated weight ratings.

American Motors and Jeep argued that requiring alterers to certify conformity discriminates against manufacturers' dealers. They pointed out that dealers, who generally alter vehicles before sale, are required to maintain conformity, while aftermarket installers of equipment, because the additions they make are to "used" vehicles, need not. They suggested that "special add-on accessories" be excepted from the requirements, that a new category of "Special Motorized Equipment" be created to which some

of the standards would not apply, that equipment standards be issued to cover aftermarket installers, and that highway safety program standards prohibit the alteration of vehicles such that they would not conform to the standards. These comments are not, in the view of this agency, within the scope of the rulemaking. Requests of this nature should be submitted as petitions for rulemaking, with supporting data, in accordance with the procedures of 49 CFR Part 553.

British Leyland suggested that an exemption to the labeling requirements be made for persons installing accessories which the original vehicle manufacturer makes available, and whose installation he knows will not affect vehicle conformity. The NHTSA expects that most accessories meeting this description will be readily attachable within the sense of the regulation, and no further labeling in these cases will be required. It should be noted that the category of "readily attachable components" cannot be sharply defined, and in any marginal case the NHTSA will accept the reasonable judgment of the parties concerned, especially where the original manufacturer and the alterer are in agreement. In cases where components of this type are not found to be readily attachable, the burden on the alterer to determine that the alteration does not destroy conformity is minimized, leaving him with essentially no more than the attachment of the alterer label.

Certain comments pointed out that while proposed sections 567.7 and 568.8 are not limited in their application to distributors, that limitation had been retained in section 567.6. The comments suggested that, as sections 567.7 and 568.8 applied to dealers, section 567.6 should likewise so apply. The substance of the suggestion has been adopted in the final rule, by modifying § 567.6 to apply to any person.

The Recreation Vehicle Institute (RVI) suggested that manufacturers of completed vehicles be required to supply a document when requested by a vehicle alterer, similar to that provided by final-stage manufacturers, that advises alterers how to achieve or retain conformity. This suggestion has not been adopted. If a vehicle manufacturer wishes to provide information on the

alteration of his vehicles, he of course may do so. Once a completed, certified vehicle has been produced, however, the NHTSA does not believe it reasonable to require manufacturers to provide persons who might alter that vehicle with additional certification information. The requirement to provide information concerning incomplete vehicles (Part 568) is founded on the fact that an incomplete vehicle manufacturer has marketed his vehicles with the express intent of having them completed by other persons. This is not the case with completed vehicles.

RVI also suggested that the regulation specifically provide that alterers be allowed to base their conclusions as to conformity on the original certification. The NHTSA does not consider such a provision to be meaningful. The extent to which the alterer's conformity assurance may be based on the original certification depends entirely on what the alterer does to the vehicle, which is a fact peculiarly within his knowledge.

Certain comments suggested that compliance with the requirements be permitted before the

specified effective date. The NHTSA believes this request to be meritorious. Alterers will be able to conform to existing requirements or to those issued by this notice at any time up to the effective date.

In light of the above, amendments are made to 49 CFR Parts 567 and 568

Effective date: February 1, 1974. However, persons who alter vehicles may at any time before that date conform to the provisions issued in this notice in lieu of existing provisions of 49 CFR Parts 567 and 568.

Sections 103, 112, 114, 119, Pub. L. 89-563, 80 Stat. 718; 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 38 F.R. 12147.

Issued on June 13, 1973.

James E. Wilson
Associate Administrator
Traffic Safety Programs

38 F.R. 15961
June 19, 1973

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PREAMBLE TO AMENDMENT TO PART 567—CERTIFICATION

(Docket No. 71-19; Notice 3)

This notice establishes a new Federal Motor Vehicle Safety Standard No. 120, *Tire selection and rims for motor vehicles other than passenger cars*, 49 CFR 571.120, and amends 49 CFR Part 567, *Certification*. The new standard specifies tire and rim selection requirements for multi-purpose passenger vehicles (MPV's), trucks, buses, trailers, and motorcycles, and marking requirements for rims for use on these vehicles. It also adds tire and rim matching information to the items required to appear on such vehicles' certification labels. The amendment to Part 567 makes that regulation consistent with the new standard. The notice is based on proposals which were published August 3, 1971 (36 FR 14273) and June 3, 1974 (39 FR 19505).

The standard requires new vehicles (other than passenger cars, which are the subject of Standard No. 110) to be equipped with tires that comply with either Standard No. 109, *New Pneumatic Tires—Passenger Cars*, or Standard No. 119, *New Pneumatic Tires for Vehicles Other Than Passenger Cars*. The tires must be fitted to rims which have been designated by the tire manufacturer, in accordance with S4.4 of Standard No. 109 or S5.1 of Standard No. 119, as suitable for use with those tires. The designations are made by listing the tire-rim matching information in one of seven industry-maintained publications or by furnishing this information to dealers of the manufacturer's tires, to any person upon request, and to the NHTSA.

Each axle must be equipped with tires the sum of whose load ratings is not less than that axle system's Gross Axle Weight Rating (GAWR). In certain situations, discussed below, a vehicle may be equipped with used tires of adequate load rating that were originally manufactured to comply with Standard No. 119. Adequacy is determined as follows: the sum of the maximum

load ratings of the tires must be equal to or greater than the GAWR which is specified on the Part 567 certification label, with an exception discussed below. If the certification label lists more than one GAWR-tire combination for the axle, the sum of the tires' maximum load ratings must meet or exceed the GAWR that corresponds to the tires' size designation. If more than one combination is listed, but the size designation of the actual tires on the vehicle is not among those listed, then the sum of the load ratings must simply meet or exceed the lowest GAWR which does appear.

Rims must be marked with five items of information: the size designation (and, in the case of multipiece rims, the type designation), an indication of the source of the rim's nominal dimensions, and the DOT symbol must appear on the weather side, while identification of the manufacturer and date of manufacture may appear at any place on the rim's surface. The standard does not explicitly require that a rim conform to its published dimensions. If a rim's deviation from these nominal dimensions is so great that a safety hazard is presented, however, the defect notification and remedy provisions of the National Traffic and Motor Vehicle Safety Act of 1966, as amended, provide authority to deal with the hazard.

To reduce the possibility of confusion and to minimize the number of characters stamped on the rim, the standard establishes a set of code letters to indicate the source of the rim's nominal dimensions. "T", "E", "J", "D", "M", "B", and "S" indicate the industry publications listed in Standards Nos. 109 and 119, while "N" indicates an independent listing with tire dealers and the NHTSA. The proposed requirement that the marking indicate the date of the publication has not been adopted because it does not appear neces-

sary. The standard does not require manufacturers to be identified with a code number assigned by the NHTSA, because no action has been taken on the proposal published in the Federal Register on June 7, 1973 (38 FR 14968). The rim manufacturer is free to use his name, trademark, or a symbol of his choice. Because a rim's maximum load rating may be limited by its disc, this standard does not require that the maximum load rating be marked. The rim's maximum inflation pressure, while not affected by the choice of disc, is potentially misleading without additional marking of the disc. These rim markings are being considered in conjunction with further NHTSA rulemaking activity concerning wheels.

Several commenters objected to the proposed requirement of a tire-rim information label, required by Part 567. Upon consideration of these comments, the NHTSA agrees that a separate placard is unnecessary. GVWR and GAWR are already required to appear on the certification label. If the vehicle manufacturer exercises his option of listing more than one GVWR-GAWR combination, he is already required to indicate the proper tire size designations after each weight rating. Standard No. 120 further requires, for vehicles other than passenger cars, the following information to appear after each weight rating and tire size designation listed on the certification label: rim size designation, cold inflation pressure for the tires, and speed restriction (if any) for the tires. This information is now required to appear even when only one GVWR-GAWR combination is listed. The Part 567 label is thus expanded to include the information that would have appeared on the separate label described in S5.4 of the proposed standard No. 120.

Many commenters pointed to the large number of possible axle-tire-rim combinations and suggested that the information label would be too large and confusing. Some discussed the vehicle manufacturer's difficulty in ensuring that the required information appear, given the common practice of changing tires and rims after a new vehicle has been shipped to a dealer. These commenters appear to have misunderstood the various proposed and existing requirements. Part

567 does not, in its prior form or as amended today, require a listing for more than one GVWR-GAWR-tire combination. Further, while S5.1.2 of Standard No. 120 requires the tires with which a new vehicle is equipped to be of adequate loading rating for the GAWR, and while S5.3 requires an indication of tires adequate for the GAWR, there is no requirement that the actual tires be listed on the certification label. The tire information on that label is intended as a guide which tells the user what replacement tires, as a minimum, are appropriate for the listed GAWR and what rims are appropriate for those tires.

Guerdon Industries, Inc., objected to the requirement that vehicles be restricted to the load limits molded on tire sidewalls. They pointed to the mobile home industry's practice of loading tires to 150 percent of their load ratings, and argued that this practice should be permitted to continue. Examination of data compiled by the Bureau of Motor Carrier Safety, however, shows that from 1969 to 1972 (the most recent years for which figures are available), tires accounted for 18.0 percent of reported mobile home accidents. The NHTSA therefore rejects the proposition that such overloading does not present a safety hazard. There is no exception to the requirement that all vehicles be equipped with tires of adequate load rating.

Some commenters requested that tire overloading be permitted under restricted speed conditions. These commenters appear to have misunderstood the scope of the standard. Vehicles-in-use are regulated by the States and by the Bureau of Motor Carrier Safety. Standard No. 120 does not prohibit the overloading of tires in speed-restricted service, or otherwise regulate the use of tires or vehicles. The GVWR and GAWR information on the certification level is based on unrestricted service.

The formula described above for tire selection is subject to an exception for MPV's, trucks, buses, and trailers which are equipped with passenger car tires. The combined maximum load rating of the passenger car tires on an axle must be equal to or greater than 110 percent of the axle's GAWR. Some comments supported this exception as it was proposed. Others suggested

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The standard requires new vehicles (other than passenger cars, which are the subject of Standard No. 110) to be equipped with tires that comply with either Standard No. 109, *New Pneumatic Tires—Passenger Cars*, or Standard No. 119, *New Pneumatic Tires for Vehicles Other Than Passenger Cars*. The tires must be fitted to rims which have been designated by the tire manufacturer, in accordance with S4.4 of Standard No. 109 or S5.1 of Standard No. 119, as suitable for use with those tires. The designations are made by listing the tire-rim matching information in one of seven industry-maintained publications or by furnishing this information to dealers of the manufacturer's tires, to any person upon request, and to the NHTSA.

Each axle must be equipped with tires the sum of whose load ratings is not less than that axle system's Gross Axle Weight Rating (GAWR). In certain situations, discussed below, a vehicle may be equipped with used tires of adequate load rating that were originally manufactured to comply with Standard No. 119. Adequacy is determined as follows: the sum of the maximum

load ratings of the tires must be equal to or greater than the GAWR which is specified on the Part 567 certification label, with an exception discussed below. If the certification label lists more than one GAWR-tire combination for the axle, the sum of the tires' maximum load ratings must meet or exceed the GAWR that corresponds to the tires' size designation. If more than one combination is listed, but the size designation of the actual tires on the vehicle is not among those listed, then the sum of the load ratings must simply meet or exceed the lowest GAWR which does appear.

Rims must be marked with five items of information: the size designation (and, in the case of multipiece rims, the type designation), an indication of the source of the rim's nominal dimensions, and the DOT symbol must appear on the weather side, while identification of the manufacturer and date of manufacture may appear at any place on the rim's surface. The standard does not explicitly require that a rim conform to its published dimensions. If a rim's deviation from these nominal dimensions is so great that a safety hazard is presented, however, the defect notification and remedy provisions of the National Traffic and Motor Vehicle Safety Act of 1966, as amended, provide authority to deal with the hazard.

To reduce the possibility of confusion and to minimize the number of characters stamped on the rim, the standard establishes a set of code letters to indicate the source of the rim's nominal dimensions. "T", "E", "J", "D", "M", "B", and "S" indicate the industry publications listed in Standards Nos. 109 and 119, while "N" indicates an independent listing with tire dealers and the NHTSA. The proposed requirement that the marking indicate the date of the publication has not been adopted because it does not appear neces-

sary. The standard does not require manufacturers to be identified with a code number assigned by the NHTSA, because no action has been taken on the proposal published in the Federal Register on June 7, 1973 (38 FR 14968). The rim manufacturer is free to use his name, trademark, or a symbol of his choice. Because a rim's maximum load rating may be limited by its disc, this standard does not require that the maximum load rating be marked. The rim's maximum inflation pressure, while not affected by the choice of disc, is potentially misleading without additional marking of the disc. These rim markings are being considered in conjunction with further NHTSA rulemaking activity concerning wheels.

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Many commenters pointed to the large number of possible axle-tire-rim combinations and suggested that the information label would be too large and confusing. Some discussed the vehicle manufacturer's difficulty in ensuring that the required information appear, given the common practice of changing tires and rims after a new vehicle has been shipped to a dealer. These commenters appear to have misunderstood the various proposed and existing requirements. Part

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Guerdon Industries, Inc., objected to the requirement that vehicles be restricted to the load limits molded on tire sidewalls. They pointed to the mobile home industry's practice of loading tires to 150 percent of their load ratings, and argued that this practice should be permitted to continue. Examination of data compiled by the Bureau of Motor Carrier Safety, however, shows that from 1969 to 1972 (the most recent years for which figures are available), tires accounted for 18.0 percent of reported mobile home accidents. The NHTSA therefore rejects the proposition that such overloading does not present a safety hazard. There is no exception to the requirement that all vehicles be equipped with tires of adequate load rating.

Some commenters requested that tire overloading be permitted under restricted speed conditions. These commenters appear to have misunderstood the scope of the standard. Vehicles-in-use are regulated by the States and by the Bureau of Motor Carrier Safety. Standard No. 120 does not prohibit the overloading of tires in speed-restricted service, or otherwise regulate the use of tires or vehicles. The GVWR and GAWR information on the certification level is based on unrestricted service.

The formula described above for tire selection is subject to an exception for MPV's, trucks, buses, and trailers which are equipped with passenger car tires. The combined maximum load rating of the passenger car tires on an axle must be equal to or greater than 110 percent of the axle's GAWR. Some comments supported this exception as it was proposed. Others suggested

that passenger car tires be permitted on such vehicles without the 110% factor, while the RMA and others argued that passenger car tires should not be permitted on trailers at all. The NHTSA rejects the argument that the 110% correction factor is unnecessary. Because non-passenger-car service on the average puts greater stresses on a tire (for example, trucks and trailers are driven at or near their maximum rated loads more often than passenger cars), a given load rating for a Standard No. 109 tire does not have the same meaning as the identical load rating for a Standard No. 119 tire. Conversely, the NHTSA has found no evidence that passenger car tires are inadequate for trailer service when the load correction factor is applied. The 110 percent factor is therefore adopted as proposed.

As proposed, the standard included an exception to the requirement that new vehicles be equipped with new tires conforming to Standard No. 109 or 119. Used tires were to be permitted on a truck, bus, or trailer (other than a mobile structure trailer) under the following conditions: the tires were originally manufactured to comply with Standard No. 119; they were of adequate load rating; they were owned or leased by the purchaser; and they were installed on the new vehicle at its place of manufacture at the purchaser's request. Comments on this exception were generally favorable, although one mobile home manufacturer objected to the exclusion of mobile structure trailers. The exception was intended to accommodate commercial delivery practices in the truck, bus, and trailer industry. While fleets which lease tires on a mileage-contract basis or which install their own used tires on new vehicles are in a good position to know the condition of these tires, the mobile home purchaser has no knowledge of the history of used tires installed on his vehicle. The proposed exception to the new tire requirement is therefore not extended to include all mobile structure trailers. It is, however, extended to include those delivered to the purchaser by a motor carrier, because a motor carrier (who is subject to Bureau of Motor Carrier Safety regulations) can be expected to be more familiar with tire safety needs than a typical purchaser. To clarify the proposed language "originally manufactured to

comply with Standard No. 119", the words "as evidenced by the DOT symbol" have been added to the text of the standard.

Several commenters pointed out that certain vehicles are designed for non-uniform side to side loading, and suggested that the proposed method of determining the necessary tire load rating from the GAWR (dividing GAWR by the number of wheel positions on the axle) is inadequate for such vehicles. These commenters argued that tire load rating should be based on the maximum wheel load, rather than on the GAWR. The standard issued today does not specify the maximum load rating to be exceeded by each tire on any given axle. Instead, it requires the sum of those load ratings to meet or exceed the GAWR. The manufacturer of an asymmetrically designed vehicle can therefore equip an axle with tires of differing load ratings. The NHTSA agrees that each tire should be capable of carrying its maximum expected wheel load. At this time, however, the NHTSA considers its defect authority, combined with the new standard, adequate to ensure that vehicles are equipped with such tires.

Definitions have been added to clarify the meaning of "rim base", "rim size designation", "rim type designation", "rim diameter", "rim width", and "weather side". Definitions suggested for other terms have not been included in the standard because the meaning have been found to be widely understood or self evident.

Many comments pointed out problems with a single effective date. For example, for marked rims to be available to vehicle manufacturers in time, an interval is necessary between the effective dates for the rim marking requirement and the requirement that vehicles be equipped with rims that comply with the standard. Similarly, to require all used tires, otherwise permitted by S5.1.3 to have originally been manufactured to comply with Standard No. 119 would, without a delayed effective date, cause the waste of pre-Standard No. 119 tires of adequate load-carrying capacity. Accordingly, a staggered system of effective dates is established as set out below.

In consideration of the foregoing, Chapter V of Title 49, Code of Federal Regulations, is amended. . . .

Effective: September 1, 1976

Effective dates: For the amendment to Part 567: September 1, 1976. For Standard No. 120: August 1, 1976, for the rim marking requirements (S5.2), and September 1, 1976, for the remaining requirements except as otherwise provided in the standard.

(Secs. 103, 112, 114, 119, 201, 202, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407,

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In consideration of the foregoing, Chapter V of Title 49, Code of Federal Regulations, is amended. . . .

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Effective dates: For the amendment to Part 567: September 1, 1976. For Standard No. 120: August 1, 1976, for the rim marking requirements (S5.2), and September 1, 1976, for the remaining requirements except as otherwise provided in the standard.

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1421, 1422); delegation of authority at 49 CFR 1.50.)

Issued on January 19, 1976.

James B. Gregory
Administrator

41 F.R. 3478
January 23, 1976

PREAMBLE TO AMENDMENT TO PART 567—CERTIFICATION

(Docket No. 76-1; Notice 2)

This notice amends 49 CFR 567 and 575 to allow manufacturers an alternative method of referring purchasers to appropriate consumer information tables.

On January 22, 1976, the National Highway Traffic Safety Administration issued in the Federal Register (40 FR 3315) a notice which proposed amending 49 CFR 575, Consumer Information and 49 CFR 567, Certification to allow the consumer information document provided to the purchaser of a vehicle to refer the reader to the vehicle's certification label to determine which information applied to that vehicle. This information, which relates to the performance characteristics of the vehicle, is required to be made available to purchasers by 49 CFR 575.6(a). Currently, if the document containing this information also contains information relating to other vehicles, the document itself must clearly indicate which information is applicable to the vehicle purchased. The NHTSA proposal was made in response to a petition from the General Motors Corporation which suggested that the proposed alternative procedure would for some companies be a more efficient and less costly method of accomplishing the purposes of the regulation.

Comments in support of the proposal were received from General Motors Corporation,

American Motors Corporation, Chrysler Corporation and Ford Motor Company. No comments in opposition were received.

Based on the petition of General Motors and the comments concerning the notice of proposed rulemaking, the NHTSA concludes that allowing an alternative method of designating the appropriate consumer information tables would reduce the possibility of error and lessen the cost to the manufacturer.

In consideration of the foregoing, Parts 567 and 575 of Title 49, Code of Federal Regulations, are amended. . . .

Effective date: April 1, 1976. Because the procedures established herein are optional and impose no increased burden on any party, it is found for good cause shown that an immediate effective date is in the public interest.

(Sec. 103, 112, 114, 119, Pub. L. 80-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1403, 1407); delegation of authority at 49 CFR 1.50.)

Issued on: March 26, 1976.

James B. Gregory
Administrator

41 F.R. 13923
April 1, 1976

PREAMBLE TO AMENDMENT TO PART 567—CERTIFICATION**(Docket No. 76-1; Notice 2)**

This notice amends 49 CFR 567 and 575 to allow manufacturers an alternative method of referring purchasers to appropriate consumer information tables.

On January 22, 1976, the National Highway Traffic Safety Administration issued in the Federal Register (40 FR 3315) a notice which proposed amending 49 CFR 575, Consumer Information and 49 CFR 567, Certification to allow the consumer information document provided to the purchaser of a vehicle to refer the reader to the vehicle's certification label to determine which information applied to that vehicle. This information, which relates to the performance characteristics of the vehicle, is required to be made available to purchasers by 49 CFR 575.6(a). Currently, if the document containing this information also contains information relating to other vehicles, the document itself must clearly indicate which information is applicable to the vehicle purchased. The NHTSA proposal was made in response to a petition from the General Motors Corporation which suggested that the proposed alternative procedure would for some companies be a more efficient and less costly method of accomplishing the purposes of the regulation.

Comments in support of the proposal were received from General Motors Corporation,

American Motors Corporation, Chrysler Corporation and Ford Motor Company. No comments in opposition were received.

Based on the petition of General Motors and the comments concerning the notice of proposed rulemaking, the NHTSA concludes that allowing an alternative method of designating the appropriate consumer information tables would reduce the possibility of error and lessen the cost to the manufacturer.

In consideration of the foregoing, Parts 567 and 575 of Title 49, Code of Federal Regulations, are amended. . . .

Effective date: April 1, 1976. Because the procedures established herein are optional and impose no increased burden on any party, it is found for good cause shown that an immediate effective date is in the public interest.

(Sec. 103, 112, 114, 119, Pub. L. 80-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1403, 1407); delegation of authority at 49 CFR 1.50.)

Issued on: March 26, 1976.

James B. Gregory
Administrator

41 F.R. 13923
April 1, 1976

PREAMBLE TO AMENDMENT TO PART 567—CERTIFICATION

(Docket No. 71-19; Notice 4)

This notice delays the effective dates of certain requirements of Standard No. 120, Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars, and of the conforming amendment to 49 CFR Part 567, Certification, that was issued along with the standard. Its purpose is to permit manufacturers to avoid the burden of preparation for compliance with requirements that the NHTSA has determined should be amended. There is no delay, however, in the standard's basic tire and rim selection requirements, which become effective September 1, 1976.

Standard No. 120 (49 CFR § 571.120) was issued on January 19, 1976 (41 FR 3478; January 23, 1976; Notice 3). It specifies requirements for tire and rim selection, rim marking, and the provision of tire and rim information on vehicle certification labels. Part 567, the certification regulation, was amended in the same FEDERAL REGISTER notice, to accommodate the additional labeling.

Manufacturers are expected to begin preparations for compliance with a standard at the time a final rulemaking notice is issued. Lead times are established in accordance with this expectation, despite the possibility of future amendments. Fifteen petitions for reconsideration of Standard No. 120 have been received. From the petitions and other information available to this agency, the NHTSA has determined that certain provisions of the standard should be amended. However, the agency finds it impracticable to respond to the petitions by May 24, 1976, the date by which a response would be expected under its policy regarding such responses (49 CFR Part 553, Appendix). The agency plans to respond to the petitions not later than July 1, 1976. Without a delay of certain effective dates, manufacturers would be forced to make prepara-

tion for compliance with requirements that will, in all likelihood, be changed.

Accordingly, this notice changes from September 1, 1976, to September 1, 1977, the effective date of the requirement, found in S5.3, that certain information appear on a vehicle's certification label. The effective date of the conforming amendment to Part 567, *Certification*, is similarly changed to September 1, 1977. The effective date of S5.2, *Rim Marking*, is changed from August 1, 1976, to August 1, 1977. The date by which vehicles must be equipped with rims that are marked in accordance with the standard, which is presently specified in S5.1.1 as March 1, 1977, is changed to September 1, 1979. The NHTSA is considering the possibility of eliminating this requirement entirely, to simplify the phase-in of properly marked rims as they become available.

Manufacturers should note that, apart from the changed effective date for the requirement in S5.1.1 that vehicles be equipped with properly marked rims, there is no delay in the September 1, 1976, effective date of the standard's basic requirement, S5.1 (*Tire and Rim Selection*).

The symbol "DOT" is required by S5.2(c) to appear on every non-passenger-car rim manufactured on or after the effective date of the rim marking requirements, as a certification by the manufacturer of the rim that it complies with all applicable Federal motor vehicle safety standards. Several manufacturers have requested permission to begin stamping the symbol on rims that otherwise comply with the standard, before that effective date. In the past, the NHTSA has in similar situations taken the position that such use of the DOT symbol to indicate "anticipatory compliance" would necessarily be a false or misleading certification, because no standard would in fact be in effect at the time of its use.

The agency has determined that a limited relaxation of this principle will not adversely affect its enforcement authority, yet will both foster early compliance with impending requirements and ease manufacturer's difficulties in transition to new production procedures. Accordingly, the NHTSA will not consider the use of the symbol "DOT" on an item of motor vehicle equipment that is not subject to any applicable and effective standard to be "false or misleading" if the following conditions are met: (i) there has, as of the date of manufacture of the item of equipment, been issued as a final rule a Federal motor vehicle safety standard to which the item of equipment would, but for that date's being earlier than the standard's effective date, be subject; and (ii) the item of equipment meets all requirements set out in the standard as most recently published before the date of manufacture of the equipment. The NHTSA will continue to consider other, unauthorized uses of the symbol to be "false or misleading in a material respect" within the meaning of Section 108(a)-(1)(C) of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1398(a)(1)(C)).

This interpretation will permit the requested stamping that is discussed above. It will not

permit the restamping, requested by several manufacturers, of previously manufactured rims that are in stock. These latter requests, however, are no longer of practical significance because of the other actions taken in this notice.

In consideration of the foregoing, the effective date of the amendment to 49 CFR Part 567, *Certification*, that was published on January 23, 1976 (49 FR 3478) is changed from September 1, 1976, to September 1, 1977, and changes are made to 49 CFR § 571.120 (Standard No. 120, *Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars*)

Effective date: These changes in the text of the Code of Federal Regulations should be made immediately.

(Sec. 103, 112, 114, 119, 201, 202, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1403, 1407, 1421, 1422); delegation of authority at 49 CFR 1.50.)

Issued on April 29, 1976.

Robert L. Carter
Acting Administrator

41 F.R. 18659
May 6, 1976

PREAMBLE TO AMENDMENT TO PART 567—CERTIFICATION

(Docket No. 71-19; Notice 4)

This notice delays the effective dates of certain requirements of Standard No. 120, Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars, and of the conforming amendment to 49 CFR Part 567, Certification, that was issued along with the standard. Its purpose is to permit manufacturers to avoid the burden of preparation for compliance with requirements that the NHTSA has determined should be amended. There is no delay, however, in the standard's basic tire and rim selection requirements, which become effective September 1, 1976.

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Manufacturers are expected to begin preparations for compliance with a standard at the time a final rulemaking notice is issued. Lead times are established in accordance with this expectation, despite the possibility of future amendments. Fifteen petitions for reconsideration of Standard No. 120 have been received. From the petitions and other information available to this agency, the NHTSA has determined that certain provisions of the standard should be amended. However, the agency finds it impracticable to respond to the petitions by May 24, 1976, the date by which a response would be expected under its policy regarding such responses (49 CFR Part 553, Appendix). The agency plans to respond to the petitions not later than July 1, 1976. Without a delay of certain effective dates, manufacturers would be forced to make prepara-

tion for compliance with requirements that will, in all likelihood, be changed.

Accordingly, this notice changes from September 1, 1976, to September 1, 1977, the effective date of the requirement, found in S5.3, that certain information appear on a vehicle's certification label. The effective date of the conforming amendment to Part 567, *Certification*, is similarly changed to September 1, 1977. The effective date of S5.2, *Rim Marking*, is changed from August 1, 1976, to August 1, 1977. The date by which vehicles must be equipped with rims that are marked in accordance with the standard, which is presently specified in S5.1.1 as March 1, 1977, is changed to September 1, 1979. The NHTSA is considering the possibility of eliminating this requirement entirely, to simplify the phase-in of properly marked rims as they become available.

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Effective: May 6, 1976

The agency has determined that a limited relaxation of this principle will not adversely affect its enforcement authority, yet will both foster early compliance with impending requirements and ease manufacturer's difficulties in transition to new production procedures. Accordingly, the NHTSA will not consider the use of the symbol "DOT" on an item of motor vehicle equipment that is not subject to any applicable and effective standard to be "false or misleading" if the following conditions are met: (i) there has, as of the date of manufacture of the item of equipment, been issued as a final rule a Federal motor vehicle safety standard to which the item of equipment would, but for that date's being earlier than the standard's effective date, be subject; and (ii) the item of equipment meets all requirements set out in the standard as most recently published before the date of manufacture of the equipment. The NHTSA will continue to consider other, unauthorized uses of the symbol to be "false or misleading in a material respect" within the meaning of Section 108(a)-(1)(C) of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1398(a)(1)(C)).

This interpretation will permit the requested stamping that is discussed above. It will not

permit the restamping, requested by several manufacturers, of previously manufactured rims that are in stock. These latter requests, however, are no longer of practical significance because of the other actions taken in this notice.

In consideration of the foregoing, the effective date of the amendment to 49 CFR Part 567, *Certification*, that was published on January 23, 1976 (49 FR 3478) is changed from September 1, 1976, to September 1, 1977, and changes are made to 49 CFR § 571.120 (Standard No. 120, *Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars*)

Effective date: These changes in the text of the Code of Federal Regulations should be made immediately.

(Sec. 103, 112, 114, 119, 201, 202, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1403, 1407, 1421, 1422); delegation of authority at 49 CFR 1.50.)

Issued on April 29, 1976.

Robert L. Carter
Acting Administrator

41 F.R. 18659
May 6, 1976

PREAMBLE TO AMENDMENT TO PART 567—CERTIFICATION

(Docket No. 73-31; Notice 02)

The National Highway Traffic Safety Administration's Certification regulations for motor vehicles are amended to allow gross axle weight ratings to be combined on the certification label in the case of consecutive axles that have identical weight ratings. The amendment results from a suggestion from the Trailmobile Company and reflects the view that a separate listing for each GAWR can cause unnecessarily long certification labels that are more difficult to understand than labels containing combined axle weight ratings.

Dates: Effective date June 20, 1977.

Addresses: Requests for reconsideration should refer to the docket number and be submitted to: Docket Section, Room 5108, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

For further information contact:

Mr. David Fay
Motor Vehicle Programs
National Highway Traffic Safety
Administration
Washington, D.C. 20590
(202) 426-2817

Supplementary information: Part 567 of NHTSA regulations (49 CFR Part 567, *Certification*) requires, among other things, a listing of the gross axle weight rating (GAWR) for each axle of the certified vehicle (§§ 567.4(g)(4), 567.5(a)(6)).

A manufacturer of trailers urged that a separate listing for each GAWR can, on many-axled vehicles, cause unnecessarily lengthy certification labels that are more difficult to understand than labels containing combined axle weight ratings. The NHTSA agreed and subsequently proposed an amendment of Part 567 to allow GAWR's to be combined on the certification label for consecutive axles that have identical weight ratings

(38 FR 33775, December 7, 1973). Each of the eight comments on the proposal supported the concept of combined GAWR ratings, and the NHTSA makes final the amendment essentially in the form proposed.

In response to a Ford question, the option of combining axle ratings as long as the tire designation is listed does not require that axle-by-axle listings also be accompanied by the tire designation. For clarification, the illustration of combined ratings is titled, "EXAMPLES OF COMBINED RATINGS."

International Harvester pointed out that the incomplete vehicle document provided to assist final-stage manufacturers should also be amended to permit the optional listing of combined GAWR listings. The agency agrees that such parallelism is logically justified and accordingly adds the option to the requirements of § 568.4 of Part 568.

International Harvester's understanding that the new language would permit a set of tandem axles to be listed together as the total value of the two separate GAWR's is incorrect. The agency only proposed a new method for statement of the GAWR, which is a concept applicable only to separate axle systems, not combinations of axle systems. It is noted that neither example appended to the proposed language would have suggested the incorrect understanding advanced by International Harvester.

The agency has also clarified that the new means of stating values is optional, by adding the phrase "at the option of the manufacturer" to the second sentence following the word "may."

In consideration of the foregoing, amendments are made in Chapter V of Title 49, Code of Federal Regulations.

Effective: June 20, 1977

Note—The economic and inflationary impacts of this rulemaking have been evaluated in accordance with OMB Circular A-107, and an Economic Impact Statement is not required.

Because the amendment provides an option and does not create additional obligations for any person, the agency finds that the amendment may become effective immediately.

The program official and lawyer principally responsible for this amendment are David Fay and Tad Herlihy, respectively.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on June 13, 1977.

Joan Claybrook
Administrator

42 F.R. 31161
June 20, 1977

PREAMBLE TO AMENDMENT TO PART 567—CERTIFICATION

(Docket No. 73-31; Notice 02)

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(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on June 13, 1977.

Joan Claybrook
Administrator

42 F.R. 31161
June 20, 1977

PREAMBLE TO AMENDMENT TO PART 567—CERTIFICATION

(Docket No. 73-31; Notice 03)

In an amendment of agency regulations on June 20, 1977, an incorrect format was published for the listing of tire information. This notice corrects that error by the replacement of the symbol "x" wherever it occurs, with the symbol "-".

Effective date: July 21, 1977.

For further information contact:

Mr. David Fay
Motor Vehicle Programs
National Highway Traffic Safety
Administration
Washington, D.C. 20590
(202) 426-2817

Supplementary information: On June 20, 1977 (42 FR 31161), the NHTSA published an amendment to Part 567, *Certification*, and Part 568, *Vehicles Manufactured in Two or More Stages*, permitting the use of the "all axles" designation on the certification label where tire and rim information is identical for all axles. In that amendment, the agency erroneously listed a tire size example that used the symbol "x" to separate

tire width from diameter. Current agency regulations use the symbol "-" instead of "x". The agency by this notice corrects the June 20 notice to reflect current agency practice.

Accordingly, Volume 49 of the Code of Federal Regulations, Part 567.4(g)(4) and 567.5(a)(6) and Part 568.4(a)(5) are corrected by substituting the symbol "-" for the symbol "x" wherever it occurs in the examples listed thereunder.

The principal authors of this notice are David Fay of the Office of Motor Vehicle Programs and Roger Tilton of the Office of Chief Counsel.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on July 15, 1977.

Robert L. Carter
Associate Administrator
Motor Vehicle Programs

42 F.R. 37371
July 21, 1977

PREAMBLE TO AMENDMENT TO PART 567—CERTIFICATION

(Docket No. 73-31; Notice 03)

In an amendment of agency regulations on June 20, 1977, an incorrect format was published for the listing of tire information. This notice corrects that error by the replacement of the symbol "x" wherever it occurs, with the symbol "-".

Effective date: July 21, 1977.

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tire width from diameter. Current agency regulations use the symbol "-" instead of "x". The agency by this notice corrects the June 20 notice to reflect current agency practice.

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The principal authors of this notice are David Fay of the Office of Motor Vehicle Programs and Roger Tilton of the Office of Chief Counsel.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on July 15, 1977.

Robert L. Carter
Associate Administrator
Motor Vehicle Programs

42 F.R. 37371
July 21, 1977

PREAMBLE TO AMENDMENT TO PART 567—CERTIFICATION

(Docket No. 75-28; Notice 03)

This notice amends the regulations that specify how a truck manufacturer meets its statutory responsibility to certify compliance of its products with Federal motor vehicle safety standards. Most trucks are constructed in at least two separate stages and these regulations have required the basic "chassis-cab" manufacturer to provide necessary engineering calculations to the subsequent manufacturer that permit him to finish the vehicle and certify compliance. The decision in *Rex Chainbelt v. Brinegar*, 511 F.2d 1215 (7th Cir. 1975) directed the NHTSA to amend this regulation so that both manufacturers certify compliance to the degree their work affects the vehicle.

Date: Effective date July 25, 1977.

Addresses: Petitions for reconsideration should refer to the docket number and be submitted to: Docket Section, Room 5108, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

For further information contact:

David Fay
Motor Vehicle Programs
National Highway Traffic Safety
Administration
Washington, D.C. 20590
(202) 426-2817

Supplementary information: This notice amends 49 CFR Part 567, *Certification*, by adding a labeling requirement for chassis-cab manufacturers and modifying the labeling requirements for final stage manufacturers, in accordance with the decision in *Rex Chainbelt, Inc. v. Brinegar*, 511 F.2d 1215 (7th Cir. 1975). Conforming amendments are made to 49 CFR Part 568, *Vehicles Manufactured in Two or More Stages*. Certification labeling requirements for intermediate manufacturers are proposed in a com-

panion notice issued today (Notice 4, 42 FR 378).

The notice is based on a proposal that was published as Notice 1 on October 3, 1975 (40 FR 45847). Seventeen comments were received in response to the proposal. The amendments are adopted essentially as proposed. The major change is that the list of permissible locations for the required certification labels has been extended to include the inward-facing surface of the driver's door, in order to accommodate the larger sizes of labels that can now be expected. Any submitted suggestions for changes that are not specifically mentioned herein are declined for action or proposal at this time, on the basis of all the information presently available to the agency.

The existing scheme for the certification of multistage vehicles is found in Parts 567 and 568 of Title 49, Code of Federal Regulations. Briefly, it requires a final-stage manufacturer to certify that his completed vehicle complies with all applicable Federal motor vehicle safety standards, on the basis of (i) the work he has performed and (ii) the information concerning the incomplete vehicle's conformity status with respect to each standard, found in a document (the "Part 568 document") supplied by those who have previously performed work on the incomplete vehicle. This scheme is more fully described in the notice of proposed rulemaking at 40 FR 45847.

Petitioners in the *Rex Chainbelt* case attacked the validity of the scheme as it applied to a company mounting cement mixers on chassis-cabs. The U.S. Court of Appeals for the Seventh Circuit, in its first opinion in this case, invalidated the scheme to the extent that it required a final-stage manufacturer who builds on a chassis-cab to make the "sole certification of compliance of the entire vehicle." *Rex Chainbelt, Inc. v. Volpe*, 486 F.2d 757, 761-762 (7th Cir. 1973).

In its last opinion, the Court restated its holding as meaning that "in instances where the customer purchases a chassis-cab from its manufacturer and thereafter the mixer from the mixer manufacturer, the 'entire vehicle' must be certified via two certifications, with the chassis-cab manufacturer certifying its chassis-cab, and with the mixer manufacturer certifying its mixer and the effect of the mounting, if any, to thus obtain effective certification of the 'entire vehicle.'" *Rex Chainbelt, Inc. v. Brinegar*, 511 F.2d 1215, 1216 (7th Cir. 1975).

Parts 567 and 568 are amended today to conform to this decision. The basic change in Part 567 is to require the manufacturer of a chassis-cab to affix a certification label to his incomplete vehicle, certifying its conformity status with respect to each standard that will be applicable to the vehicle as completed. He will divide the standards into three categories, according to the degrees to which conformity with them is approached in his product, and certify essentially the same facts about them as have merely, up to now, been required to be indicated in the Part 568 document. The final stage manufacturer who uses the chassis-cab will then make a three-part certification statement (to the extent that the three parts are applicable), corresponding to the three statements made by the chassis-cab manufacturer.

More specifically, in the first category on its label, the chassis-cab manufacturer will state, "This chassis-cab conforms to Federal Motor Vehicle Safety Standard Nos. _____," listing the numbers of the standards for which the statement is correct. In the corresponding first category on its label, the final-stage manufacturer will state, "Conformity of the chassis-cab to Federal Motor Vehicle Safety Standard Nos. _____ has not been affected by final-stage manufacturer." This couplet conforms precisely to the mandate of the Court that the chassis-cab manufacturer certify its chassis-cab, and the final-stage manufacturer certify as to the "effect" of its work. It is not necessary for all the standards that were placed in the first category by the chassis-cab manufacturer to be similarly included by the final-stage manufacturer in *his* first category. The latter manufacturer is free to "affect" the manner in which the

completed vehicle conforms to any such standards, e.g., by removing and replacing mirrors or lights, as long as he ultimately certifies in his third (final) statement conformity to those affected standards. In the extreme case, if the final-stage manufacturer wishes to exclude all of the standards from the first category, he may omit this statement altogether.

The second category of standards, those that are necessarily strongly affected by what both the chassis-cab and final-stage manufacturers do, is the main target of the regulatory scheme. In its second statement the chassis-cab manufacturer will certify, "This vehicle will conform to Standard Nos. _____ if it is completed in accordance with the instructions contained in the incomplete vehicle document furnished pursuant to 49 CFR Part 568." The final-stage manufacturer's corresponding statement will be, "With respect to Standard Nos. _____, the vehicle has been completed in accordance with the chassis-cab manufacturer's instructions." This statement also conforms to the Court's opinion, although the treatment of this category cannot be as simple. The final-stage manufacturer, in considering a standard such as the one on air brakes that its work must crucially "affect," will thus have a choice. He may conform his completion work to the instructions of the chassis-cab manufacturer, in which case he need only make a statement to that effect, thereby throwing the burden of conformity onto the chassis-cab manufacturer. Or, he may deviate from those instructions, in which case the second statement becomes inapplicable as far as that standard is concerned, and instead include the standard in the residual third statement. Thus, the final-stage manufacturer will describe the "effect of [his] mounting, if any" either by saying he had remained within the Part 568 document's limits, thereby actuating the chassis-cab manufacturer's certification, or by making an original certification of conformity. Again, if the final-stage manufacturer chooses to omit all standards from this second category, the second statement may be omitted.

The third statement by the chassis-cab manufacturer will be, "Conformity to the other safety standards applicable to this vehicle when completed is not substantially affected by the design of the chassis-cab." The expression "substan-

PREAMBLE TO AMENDMENT TO PART 567—CERTIFICATION

(Docket No. 75-28; Notice 03)

This notice amends the regulations that specify how a truck manufacturer meets its statutory responsibility to certify compliance of its products with Federal motor vehicle safety standards. Most trucks are constructed in at least two separate stages and these regulations have required the basic "chassis-cab" manufacturer to provide necessary engineering calculations to the subsequent manufacturer that permit him to finish the vehicle and certify compliance. The decision in *Rex Chainbelt v. Brinegar*, 511 F.2d 1215 (7th Cir. 1975) directed the NHTSA to amend this regulation so that both manufacturers certify compliance to the degree their work affects the vehicle.

Date: Effective date July 25, 1977.

Addresses: Petitions for reconsideration should refer to the docket number and be submitted to: Docket Section, Room 5108, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

For further information contact:

David Fay
Motor Vehicle Programs
National Highway Traffic Safety
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Supplementary information: This notice amends 49 CFR Part 567, *Certification*, by adding a labeling requirement for chassis-cab manufacturers and modifying the labeling requirements for final stage manufacturers, in accordance with the decision in *Rex Chainbelt, Inc. v. Brinegar*, 511 F.2d 1215 (7th Cir. 1975). Conforming amendments are made to 49 CFR Part 568, *Vehicles Manufactured in Two or More Stages*. Certification labeling requirements for intermediate manufacturers are proposed in a com-

panion notice issued today (Notice 4, 42 FR 378).

The notice is based on a proposal that was published as Notice 1 on October 3, 1975 (40 FR 45847). Seventeen comments were received in response to the proposal. The amendments are adopted essentially as proposed. The major change is that the list of permissible locations for the required certification labels has been extended to include the inward-facing surface of the driver's door, in order to accommodate the larger sizes of labels that can now be expected. Any submitted suggestions for changes that are not specifically mentioned herein are declined for action or proposal at this time, on the basis of all the information presently available to the agency.

The existing scheme for the certification of multistage vehicles is found in Parts 567 and 568 of Title 49, Code of Federal Regulations. Briefly, it requires a final-stage manufacturer to certify that his completed vehicle complies with all applicable Federal motor vehicle safety standards, on the basis of (i) the work he has performed and (ii) the information concerning the incomplete vehicle's conformity status with respect to each standard, found in a document (the "Part 568 document") supplied by those who have previously performed work on the incomplete vehicle. This scheme is more fully described in the notice of proposed rulemaking at 40 FR 45847.

Petitioners in the *Rex Chainbelt* case attacked the validity of the scheme as it applied to a company mounting cement mixers on chassis-cabs. The U.S. Court of Appeals for the Seventh Circuit, in its first opinion in this case, invalidated the scheme to the extent that it required a final-stage manufacturer who builds on a chassis-cab to make the "sole certification of compliance of the entire vehicle." *Rex Chainbelt, Inc. v. Volpe*, 486 F.2d 757, 761-762 (7th Cir. 1973).

In its last opinion, the Court restated its holding as meaning that "in instances where the customer purchases a chassis-cab from its manufacturer and thereafter the mixer from the mixer manufacturer, the 'entire vehicle' must be certified via two certifications, with the chassis-cab manufacturer certifying its chassis-cab, and with the mixer manufacturer certifying its mixer and the effect of the mounting, if any, to thus obtain effective certification of the 'entire vehicle.'" *Rex Chainbelt, Inc. v. Brinegar*, 511 F.2d 1215, 1216 (7th Cir. 1975).

Parts 567 and 568 are amended today to conform to this decision. The basic change in Part 567 is to require the manufacturer of a chassis-cab to affix a certification label to his incomplete vehicle, certifying its conformity status with respect to each standard that will be applicable to the vehicle as completed. He will divide the standards into three categories, according to the degrees to which conformity with them is approached in his product, and certify essentially the same facts about them as have merely, up to now, been required to be indicated in the Part 568 document. The final stage manufacturer who uses the chassis-cab will then make a three-part certification statement (to the extent that the three parts are applicable), corresponding to the three statements made by the chassis-cab manufacturer.

More specifically, in the first category on its label, the chassis-cab manufacturer will state, "This chassis-cab conforms to Federal Motor Vehicle Safety Standard Nos. _____," listing the numbers of the standards for which the statement is correct. In the corresponding first category on its label, the final-stage manufacturer will state, "Conformity of the chassis-cab to Federal Motor Vehicle Safety Standard Nos. _____ has not been affected by final-stage manufacturer." This couplet conforms precisely to the mandate of the Court that the chassis-cab manufacturer certify its chassis-cab, and the final-stage manufacturer certify as to the "effect" of its work. It is not necessary for all the standards that were placed in the first category by the chassis-cab manufacturer to be similarly included by the final-stage manufacturer in his first category. The latter manufacturer is free to "affect" the manner in which the

completed vehicle conforms to any such standards, e.g., by removing and replacing mirrors or lights, as long as he ultimately certifies in his third (final) statement conformity to those affected standards. In the extreme case, if the final-stage manufacturer wishes to exclude all of the standards from the first category, he may omit this statement altogether.

The second category of standards, those that are necessarily strongly affected by what both the chassis-cab and final-stage manufacturers do, is the main target of the regulatory scheme. In its second statement the chassis-cab manufacturer will certify, "This vehicle will conform to Standard Nos. _____ if it is completed in accordance with the instructions contained in the incomplete vehicle document furnished pursuant to 49 CFR Part 568." The final-stage manufacturer's corresponding statement will be, "With respect to Standard Nos. _____, the vehicle has been completed in accordance with the chassis-cab manufacturer's instructions." This statement also conforms to the Court's opinion, although the treatment of this category cannot be as simple. The final-stage manufacturer, in considering a standard such as the one on air brakes that its work must crucially "affect," will thus have a choice. He may conform his completion work to the instructions of the chassis-cab manufacturer, in which case he need only make a statement to that effect, thereby throwing the burden of conformity onto the chassis-cab manufacturer. Or, he may deviate from those instructions, in which case the second statement becomes inapplicable as far as that standard is concerned, and instead include the standard in the residual third statement. Thus, the final-stage manufacturer will describe the "effect of [his] mounting, if any" either by saying he had remained within the Part 568 document's limits, thereby actuating the chassis-cab manufacturer's certification, or by making an original certification of conformity. Again, if the final-stage manufacturer chooses to omit all standards from this second category, the second statement may be omitted.

The third statement by the chassis-cab manufacturer will be, "Conformity to the other safety standards applicable to this vehicle when completed is not substantially affected by the design of the chassis-cab." The expression "substan-

tially affected" replaces "substantially determined," which appeared in the notice of proposed rulemaking, in order to clarify the meaning of this third statement. This subject is discussed further below. The third statement by the final-stage manufacturer will be, "This vehicle conforms to all other applicable Federal Motor Vehicle Safety Standards in effect in [month, year]." Obviously, conformity to standards concerning which the chassis-cab manufacturer makes no representation whatever, or to those where the final-stage manufacturer chooses not to follow the chassis-cab manufacturer's instructions, must be assumed by the final-stage manufacturer. The regulation provides that where the first two statements are omitted, the word "other" be omitted from the third statement. In this form it covers both the cases where the final-stage manufacturer chooses not to follow the chassis-cab manufacturer's instructions concerning any standards, and the cases involving incomplete vehicles other than chassis-cabs, to which the dual-certification scheme is inapplicable. Finally, it covers the cases where the final-stage manufacturer considers the simple conformity statement to adequately represent his rights and duties.

The Motor Vehicle Manufacturers Association (MVMA) and several chassis manufacturers objected to the chassis-cab manufacturer's type (1) certification, "[t]his chassis-cab conforms to Federal Motor Vehicle Safety Standard Nos. _____" on several grounds. The essence of these objections was that such a certification would be both misleading and beyond the statutory authority of the NHTSA to require, because there are no standards applicable to chassis-cabs. These commenters have referred to Section 114 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1391 *et seq.*) (the Act), which requires certification that each "[motor] vehicle or item of motor vehicle equipment conforms to all applicable Federal motor vehicle safety standards." They have correctly pointed out that a chassis-cab, because it is an incomplete vehicle, is not a "motor vehicle" as that term is defined in Section 102(3) of the Act. A chassis-cab is an item of "motor vehicle equipment," as that term is de-

fined in Section 102(4). While Federal motor vehicle safety standards have been issued for certain types of motor vehicle equipment, e.g., tires and motorcycle helmets, no such standards have been issued for chassis-cabs or other incomplete vehicles. The NHTSA agrees that the chassis-cab manufacturer's type (1) certification specified in the rule adopted today is therefore not the certification that is explicitly required by Section 114 of the Act. Even so, the NHTSA considers the former certification to be meaningful and appropriate as part of a scheme for ensuring the full certification of completed motor vehicles by the proper manufacturing parties. Conformity of a physical object (in this case, a chassis-cab) to a safety standard is a concept distinct from that standard's legal applicability to the object. For example, a chassis-cab is not statutorily required to conform to Standard No. 101, *Control Location, Identification, and Illumination*, because chassis-cabs are not listed in *S3. Application* of that standard. Nevertheless, a chassis-cab that does in fact meet the substantive requirements of the standard is accurately described as "conforming" to it.

The NHTSA does not consider the type (1) certification to be misleading provided that it is factually accurate. Any intimation to the reader of such a statement that the safety standards enumerated in it are applicable to the chassis-cab is outweighed by the need for full certification of completed motor vehicles. An untrue type (1) statement, of course, would be considered a non-compliance with 49 CFR Part 567.

Ford Motor Company has suggested that, through the new certification scheme, the NHTSA seeks to impose safety standards on chassis-cabs indirectly—without a statutorily required consideration of whether they are "reasonable, practicable, or appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which [they are] prescribed." This characterization of the new scheme is incorrect. With the three part certification statement, the chassis-cab manufacturer is merely certifying his product's *status* of conformity with respect to each of the safety standards that apply to the completed vehicle. The only standards to which a chassis-cab must actually conform are those that

he has placed in the first category, and he is free to leave that category empty by including all the standards in the succeeding two.

Indeed, the NHTSA has specifically rejected the concept, urged by Ford and others, of Federal motor vehicle safety standards that apply to chassis-cabs. It is the completed motor vehicle with which the NHTSA is most concerned, because that is what is driven on the public highways. The performance capabilities of a chassis-cab affect motor vehicle safety only through their effect on the performance of the vehicle into which the chassis-cab is completed. The consequent inappropriateness of standards applicable to chassis-cabs was discussed fully in the notice of proposed rulemaking.

The MVMA and several chassis manufacturers also objected to the second type of chassis-cab certification—that the chassis-cab will conform to enumerated standards if it is completed in accordance with the instructions found in the incomplete vehicle document. These commenters argued that such a certification statement would require the chassis-cab manufacturer to anticipate conduct over which he has no control. Because conditions on subsequent manufacturing are contained *within* a chassis-cab manufacturer's type (2) certification statement, however, the statement's truth or falsehood is established at the time of chassis-cab manufacture. The work that is actually performed on a chassis-cab following such a certification has no bearing on that truth or falsehood. These objections are thus without foundation. The chassis-cab manufacturer is protected against the wide variety of possible methods of completion over which the NHTSA readily agrees he has no control.

In a similar vein, the MVMA suggested that the chassis-cab certification statements would be susceptible to amendments made to the standards between the time of manufacture of the chassis-cab and the completion of the vehicle, and would thus be unacceptably open-ended. The MVMA is mistaken. The NHTSA interprets all the statements on the chassis-cab manufacturer's label as made with respect to the Federal motor vehicle safety standards in effect at the time of manufacture of the chassis-cab, as that time is indicated on the label.

As noted in the notice of proposed rulemaking, there is a factual limitation on the chassis-cab manufacturer's use of the third type of certification. Where the chassis design is an important determinant of a vehicle's ability to conform to a given standard, it is incorrect to state (whether on a certification label or in a Part 568 document) that conformity to that standard is "not substantially determined by the design of the chassis-cab." Ford and General Motors objected to this position, arguing that where the work of the final-stage manufacturer substantially determines conformity, the design of the chassis-cab must of necessity *not* substantially determine conformity. The NHTSA rejects these objections. It is possible for a completed vehicle's conformity to a standard to be substantially determined by *both* the design of the chassis-cab and the manner of completion by the final-stage manufacturer. Indeed, this is often the case with the braking standards and the fuel system integrity standard, among others. To more precisely characterize the agency's intention and to eliminate further confusion on this subject, the expression "substantially determined" in the chassis-cab manufacturers' type (3) certification is replaced by "substantially affected". In addition, an interpretive amendment is made to the description in Part 568 of the incomplete vehicle document, to effect the same substitution.

Rexnord, Inc. (formerly Rex Chainbelt) argued that the proposed certification scheme would not comply with the *Rex Chainbelt* holding because it would require "that the Final Mfr. certify the Chassis Mfr.'s materials, workmanship and design in some situations." The situations referred to are those in which a final-stage manufacturer affects the manner of conformity to a standard to which the chassis-cab has been certified in category (1) or departs from the completion instructions for a standard respecting which the chassis-cab has been certified in category (2). Rexnord objects to the requirement that, in these situations, the final-stage manufacturer "unconditionally" certify the completed vehicle in category (3), on the ground that he should be able to "preserve so much of the prior certification as he has a right to rely on" despite his departure from the anticipated manner of completion.

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The infinite number of modifications that can be made by a final-stage manufacturer in departing from the incomplete-vehicle manufacturer's disposition make "preservation" of the remnants of a prior certification extremely difficult under the general allocation provisions of Part 567. For this reason, the final-stage manufacturer must rely on the requirement that the chassis-cab manufacturer's certification is permanently affixed to the vehicle and thereby "preserves" that portion of the prior certification that can continue to be relied upon.

Rexnord also argued that the completion instructions supplied by chassis-cab manufacturers are often unreasonably restrictive. It urged that a new regulation be established to require those manufacturers to test and certify various "approved modifications" of their chassis-cabs. The NHTSA considers such an approach to be as unwise as the establishment of chassis-cab standards. While there may be many instances in which the chassis manufacturer is in a better position than the final-stage manufacturer to take responsibility for the safety of a modification to the chassis, the variety of manufacturing situations militates against government interference with the freedom of manufacturers to allocate responsibility among themselves as they find it most appropriate.

In response to Rexnord's suggestion, the rule specifies that the name of the chassis-cab manufacturer be preceded on the label affixed by him by the words "CHASSIS-CAB MANUFACTURED BY" or "CHASSIS-CAB MFD BY". Omission of these words from the proposed rule was an oversight. The additional suggestion that the final-stage manufacturer's name be preceded on his label by "FINAL STAGE MANUFACTURE BY" (or an abbreviation) rather than "MANUFACTURED BY" (or an abbreviation), however, is not adopted. Even though the latter designation may oversimplify the final-stage manufacturer's status, such a characterization is necessitated by the Act. In any event, the intimation that he is responsible for the entire vehicle is negated by the accompanying identification of the chassis-cab manufacturer.

The NHTSA declines the suggestion of Mack Trucks that Gross Vehicle and Gross Axle Weight

Ratings be required, or at least permitted as an option, to appear on the chassis-cab label. There is great potential for user confusion if chassis-cab and final-stage manufacturers' labels indicate different weight ratings. The need to avoid this confusion outweighs an interest in placarding weight ratings other than those of the completed vehicle. Therefore, Rexnord's request—that the final stage manufacturer who does not depart from a chassis-cab manufacturer's weight ratings be permitted to refrain from "restating" those ratings—cannot be granted.

The Recreation Vehicle Industry Association (RVIA) suggested a change in the definition of "chassis-cab" to include certain incomplete vehicles that are completed as motor homes. These "chopped vans" and "Type C" motor home chassis, however, appear to lack the prerequisite completed occupant compartments of the proposed definition. Because completeness of the occupant compartment is what sets chassis-cabs apart from other incomplete vehicles, the RVIA suggestion is declined. Accordingly, the definition is adopted as proposed. For convenience, it is located in § 567.3 rather than the definitions section of Part 571 of this title. Manufacturers are reminded that Part 568 continues to require the provision of a document with every incomplete vehicle, regardless of whether the incomplete vehicle, by virtue of being a chassis-cab, is also required by the rule issued today to be certified.

The new chassis-cab certification requirements will take effect in one year. This is longer than all the lead times requested by commenters. It provides ample time for chassis-cab manufacturers to prepare for compliance. It also enables the NHTSA to evaluate the comments and take final action on the accompanying proposal to add certification requirements for intermediate manufacturers with sufficient lead time remaining for those manufacturers.

In consideration of the foregoing, the amendments are made in Chapter V of Title 49, Code of Federal Regulations.

Effective dates: Part 567: All changes to the text of the Code of Federal Regulations should be made immediately, to minimize confusion resulting from changes in the designation of para-

graphs. The chassis-cab labeling requirements are effective as indicated in § 567.5(a). Findings: Because § 567.5(c) allows an alternative means of compliance with requirements previously set out in § 567.5(a) and creates no additional burden, the National Highway Traffic Safety Administration finds that an immediate effective date is in the public interest. Paragraphs (d) through (f) of § 567.5 are simply the prior paragraphs (b) through (d) transposed, with corrected cross-references. Because the amendment to § 567.4(c) also allows an alternative means of compliance and creates no additional burden, the NHTSA finds that an immediate effective date for this amendment is also in the public interest. Similarly, the addition of a definition to § 567.3 creates no additional burden.

Part 568: These amendments are effective immediately. The amendment to § 568.4(a)(7) is interpretive in nature. Because the amendments

to §§ 568.6 and 568.7 relieve restrictions and create no additional burdens, the NHTSA finds that an immediate effective date for them is also in the public interest.

The principal program official and lawyer responsible for preparation of this rulemaking document are David Fay and Mark Schwimmer, respectively.

(Sec. 103, 108, 112, 114, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1397, 1401, 1403, 1407); delegation of authority at 49 CFR 1.50.)

Issued on July 8, 1977.

Joan Claybrook
Administrator

42 F.R. 37814
July 25, 1977

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The new chassis-cab certification requirements will take effect in one year. This is longer than all the lead times requested by commenters. It provides ample time for chassis-cab manufacturers to prepare for compliance. It also enables the NHTSA to evaluate the comments and take final action on the accompanying proposal to add certification requirements for intermediate manufacturers with sufficient lead time remaining for those manufacturers.

In consideration of the foregoing, the amendments are made in Chapter V of Title 49, Code of Federal Regulations.

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The principal program official and lawyer responsible for preparation of this rulemaking document are David Fay and Mark Schwimmer, respectively.

(Sec. 103, 108, 112, 114, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1397, 1401, 1403, 1407); delegation of authority at 49 CFR 1.50.)

Issued on July 8, 1977.

Joan Claybrook
Administrator

42 F.R. 37814
July 25, 1977

PREAMBLE TO AMENDMENT TO PART 567—CERTIFICATION OF MULTISTAGE VEHICLES

(Docket No. 75-28; Notice 51)

Agency: National Highway Traffic Safety Administration, DOT.

Action: Correction.

Summary: In an amendment of the agency's certification regulations published July 25, 1977, an incorrect format was established for the listing of tire information. This notice corrects that error and another minor error in the wording of the regulation.

Effective date: September 19, 1977.

For further information contact:

Mr. David Fay, Motor Vehicle Programs,
National Highway Traffic Safety Adminis-
tration, Washington, D.C. 20590
(202-426-2817)

Supplementary information: On July 25, 1977 (42 FR 37814), the NHTSA published an amendment of Part 567, *Certification*, and Part 568, *Vehicles Manufactured in Two or More Stages*, which prescribed regulations for vehicle certification. In that amendment, the agency erroneously listed a tire size example that used the symbol "x" to separate the tire width from diameter. Current agency regulations use the

symbol "-" instead of "x". Accordingly, Part 567.5(c)(6) of Title 49 of the Code of Federal Regulations is corrected by the substitution of the symbol "-" for the symbol "x" wherever it occurs in the example listed thereunder.

The second sentence in Part 567.5(c)(7)(ii) is corrected to read: "The statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, to which the chassis-cab manufacturer has made the conditional certification under paragraph (a)(2) of this section."

The principal author of this document is Roger Tilton of the Office of Chief Counsel.

(Secs. 103, 108, 112, 114, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1397, 1401, 1403, 1407); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on September 14, 1977.

Robert L. Carter
Associate Administrator
Motor Vehicle Programs

42 F.R. 46927
September 19, 1977

PREAMBLE TO AMENDMENT TO PART 567—CERTIFICATION OF MULTISTAGE VEHICLES

(Docket No. 75-28; Notice 51)

Agency: National Highway Traffic Safety Administration, DOT.

Action: Correction.

Summary: In an amendment of the agency's certification regulations published July 25, 1977, an incorrect format was established for the listing of tire information. This notice corrects that error and another minor error in the wording of the regulation.

Effective date: September 19, 1977.

For further information contact:

Mr. David Fay, Motor Vehicle Programs,
National Highway Traffic Safety Administration,
Washington, D.C. 20590
(202-426-2817)

Supplementary information: On July 25, 1977 (42 FR 37814), the NHTSA published an amendment of Part 567, *Certification*, and Part 568, *Vehicles Manufactured in Two or More Stages*, which prescribed regulations for vehicle certification. In that amendment, the agency erroneously listed a tire size example that used the symbol "x" to separate the tire width from diameter. Current agency regulations use the

symbol "-" instead of "x". Accordingly, Part 567.5(c)(6) of Title 49 of the Code of Federal Regulations is corrected by the substitution of the symbol "-" for the symbol "x" wherever it occurs in the example listed thereunder.

The second sentence in Part 567.5(c)(7)(ii) is corrected to read: "The statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, to which the chassis-cab manufacturer has made the conditional certification under paragraph (a)(2) of this section."

The principal author of this document is Roger Tilton of the Office of Chief Counsel.

(Secs. 103, 108, 112, 114, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1397, 1401, 1403, 1407); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on September 14, 1977.

Robert L. Carter
Associate Administrator
Motor Vehicle Programs

42 F.R. 46927

September 19, 1977

PREAMBLE TO AMENDMENT TO PART 567—CERTIFICATION AND PART 568—VEHICLES MANUFACTURED IN TWO OR MORE STAGES

(Docket No. 75; Notice 5)

Agency: National Highway Traffic Safety Administration, DOT.

Action: Final Rule.

Summary: This amendment specifies the manner in which intermediate stage manufacturers of trucks must certify compliance with Federal motor vehicle safety standards. Some vehicles are constructed in three or more separate stages. Current regulations require only that the first and final manufacturers certify compliance to the degree that their work affects the vehicle. This amendment includes the "intermediate stage" manufacturer in the certification scheme and completes revisions of the regulations required by *Rex Chainbelt v. Brinegar*, 511 F.2d 1215 (7th Cir. 1975).

Effective date: July 2, 1978.

For further information contact:

David Fay, Engineering Systems Staff,
National Highway Traffic Safety Administration,
Washington, D.C. 20590
(202-426-2817).

Supplementary information: This notice amends 49 CFR Part 567, *Certification*, to add a labeling requirement for intermediate manufacturers who perform work on chassis-cabs. Conforming amendments to 49 CFR Part 568, *Vehicles Manufactured in Two or More Stages*, are also made.

On July 25, 1977, the NHTSA published in the *Federal Register* (42 FR 37831) a notice proposing to amend the agency's certification regulations by adding certification responsibilities for intermediate manufacturers. That action

was responsive to the decision in *Rex Chainbelt*. Currently, intermediate manufacturers are the only major manufacturers in the chain of multi-stage manufacturing without certification responsibilities. To complete the certification scheme, the agency proposed to require certification by intermediate manufacturers which would indicate that such manufacturer had complied with all of the safety standards applicable to his manufacturing operation. A complete explanation of the intermediate manufacturer's certification responsibilities was printed in the notice proposing the amendment and will not be reprinted here.

No comments were received in response to the notice of proposed rulemaking. Accordingly, the agency adopts, as final, the proposal as it was issued. The agency has reviewed the costs of this regulation and concludes that they are the minimum necessary for compliance with the *Rex Chainbelt* decision.

The principal authors of this notice are David Fay of the Engineering Systems Staff and Roger Tilton of the Office of Chief Counsel.

In consideration of the foregoing, Chapter V of Title 49, Code of Federal Regulations, is amended. . . .

(Secs. 103, 108, 112, 114, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1397, 1401, 1403, 1407); delegation of authority at 49 CFR 1.50.)

Issued on March 1, 1978.

Joan Claybrook
Administrator

43 F.R. 9604
March 9, 1978

PREAMBLE TO AMENDMENT TO PART 567—CERTIFICATION AND PART 568—VEHICLES MANUFACTURED IN TWO OR MORE STAGES

(Docket No. 75; Notice 5)

Agency: National Highway Traffic Safety Administration, DOT.

Action: Final Rule.

Summary: This amendment specifies the manner in which intermediate stage manufacturers of trucks must certify compliance with Federal motor vehicle safety standards. Some vehicles are constructed in three or more separate stages. Current regulations require only that the first and final manufacturers certify compliance to the degree that their work affects the vehicle. This amendment includes the "intermediate stage" manufacturer in the certification scheme and completes revisions of the regulations required by *Rex Chainbelt v. Brinegar*, 511 F.2d 1215 (7th Cir. 1975).

Effective date: July 2, 1978.

For further information contact:

David Fay, Engineering Systems Staff,
National Highway Traffic Safety Administration,
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Issued on March 1, 1978.

Joan Claybrook
Administrator

**43 F.R. 9604
March 9, 1978**

PREAMBLE TO PART 567—CERTIFICATION BUMPER STANDARD

(Docket No. 73-19; Notice 24)

Agency: National Highway Traffic Safety Administration, (NHTSA).

Action: Final Rule.

Summary: This notice amends the method by which manufacturers are required to certify compliance with applicable Federal safety standards to require, in the case of passenger cars, simultaneous certification of compliance with Federal bumper standards.

Effective date: May 22, 1978.

For further information contact:

Mr. David Fay, Engineering Systems Staff,
National Highway Traffic Safety Administration,
Washington, D.C. 20590
(202-426-2817).

Supplementary information: On March 6, 1978, the NHTSA published a notice (43 FR 9167) proposing to amend 49 CFR Part 567, *Certification*, to implement § 105(c) of the Motor Vehicle Information and Cost Savings Act (the Act) (15 U.S.C. § 1901, et seq.), which requires certification of compliance with applicable bumper standards. The agency proposed that the manufacturer or distributor of a passenger car furnish to the distributor or dealer at the time of delivery, a single certification of compliance with all applicable safety and bumper standards. The proposal fulfilled the statutory labeling requirements and avoided the cost and inconvenience of requiring a separate bumper certification label, by simply supplementing the existing requirements of Part 567 for certification to applicable safety standards.

No unfavorable comments were received on the concept of allowing a single certification label for both safety and bumper requirements. One commenter suggested that the agency also encompass the fuel economy standards of Title V of the Act within the certification requirement of Part 567. However, Title V imposes average fuel economy requirements on manufacturer's fleets as a whole rather than on individual vehicles, making fuel economy certification labels inappropriate.

General Motors suggested allowing the label applicable to passenger cars to be used, at the manufacturer's option, on non-passenger vehicles as well, maintaining that use of two different labels could lead to control problems and increased costs. The same statement that the vehicle meets "all applicable safety and bumper standards" could technically be used on non-passenger vehicles because no bumper standards are "applicable" to this vehicle type. The agency declines to adopt General Motors' proposal, however, because consumers may be misled by such a statement into assuming that non-passenger vehicles also meet a bumper performance standard.

Several manufacturers pointed out that the proposed immediate effective date for the change would not allow sufficient lead time for preparation and printing of certification labels. To avoid difficulty in phasing in the new certification labels, the amendment has been modified to allow conversion to the new label at any time prior to September 1, 1978. This change is consistent with the provision of § 571.215 which permits the manufacture of Part 581 bumpers prior to September 1, 1978, and will not be misleading since all vehicles bearing the new label will in fact comply with either the Standard 215 or Part 581 bumper requirements.

The principal author of this notice is Richard Hipolit, Office of Chief Counsel.

Issued on May 15, 1978.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); secs. 102, 105, Pub. L. 92-513, 86 Stat. 947 (15 U.S.C. 1912, 1915); delegation of authority at 49 CFR 1.50.)

Joan Claybrook
Administrator

43 F.R. 21890
May 22, 1978

PREAMBLE TO PART 567—CERTIFICATION BUMPER STANDARD

(Docket No. 73-19; Notice 24)

Agency: National Highway Traffic Safety Administration, (NHTSA).

Action: Final Rule.

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The principal author of this notice is Richard Hipolit, Office of Chief Counsel.

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(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); secs. 102, 105, Pub. L. 92-513, 86 Stat. 947 (15 U.S.C. 1912, 1915); delegation of authority at 49 CFR 1.50.)

Joan Claybrook
Administrator

43 F.R. 21890
May 22, 1978

PREAMBLE TO AN AMENDMENT TO PART 567

Certification

Docket No. 83-15; Notice 1

ACTION: Final rule; correction.

SUMMARY: This notice amends a reference in NHTSA's motor vehicle certification regulations to a paragraph in the joint motor vehicle importation regulation of the Departments of Treasury and Transportation. The joint regulation was renumbered without a corresponding change having been made to the reference in NHTSA's certification regulations.

EFFECTIVE DATE: October 17, 1983.

SUPPLEMENTARY INFORMATION: 49 CFR Part 567, Certification, implements the statutory requirement of 15 U.S.C. 1403 for certification of compliance with applicable Federal motor vehicle safety standards. Under 49 CFR 567.2(b), as currently written:

"(b) In the case of imported motor vehicles, the requirement of affixing a label or tag applies to importers of vehicles admitted to the United States under Sec. 12.80(b)(2) of the joint regulations for importation of motor vehicles and equipment (19 CFR 12.80(b)(1)) to which the required label or tag is not affixed."

The joint regulations referred to are those of the Department of Transportation and Department of the Treasury on importation of vehicles and equipment subject the Federal motor vehicle safety standards. At the time the joint certification regulation was promulgated (36 FR 7056, April 14, 1971), these regulations provided for unconditional entry of vehicles certified as meeting Federal requirements (19 CFR 12.80(b)(1)) and conditional entry for non-certified vehicles (19 CFR 12.80(b)(2)). On December 14, 1978, the joint importation regulations were amended (43 FR 56655) and certain paragraphs were revised and renumbered. The principal change was

to make all entries conditional (the minimum condition, however, for manufacturer-certified vehicles being a simple declaration of conformance). The distinctions between the former 12.80(b)(1) and (b)(2) disappeared and 12.80(b)(2) became (b)(1) in the revision. However, no corresponding correction of reference has been made in Part 567 until now. The current section 12.80(b)(2) in the joint regulations refers to the conditions for on-road use of vehicles imported for experimental purposes, a category of temporary use for which certification is not required.

This amendment is not a major action within the meaning of Executive Order 12291 and is not a significant action under the Department's regulatory policies and procedures, since it makes no substantive change in existing certification requirements. For that same reason, I hereby certify that this amendment will not have a significant economic impact on a substantial number of small entities.

In consideration of the foregoing, subsection (b) to Section 567.2 of Title 49 Code of Federal Regulations is hereby amended to read:

"(b) In the case of imported motor vehicles, the requirement of affixing a label or tag applies to importers of vehicles admitted to the United States under 19 CFR 12.80(b)(1) to which the required label or tag is not affixed."

Issued on October 7, 1983.

Diane K. Steed
Deputy Administrator

**48 FR 46994
October 17, 1983**

PREAMBLE TO AN AMENDMENT TO PART 567

Certification

Docket No. 83-15; Notice 1

ACTION: Final rule; correction.

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This amendment is not a major action within the meaning of Executive Order 12291 and is not a significant action under the Department's regulatory policies and procedures, since it makes no substantive change in existing certification requirements. For that same reason, I hereby certify that this amendment will not have a significant economic impact on a substantial number of small entities.

In consideration of the foregoing, subsection (b) to Section 567.2 of Title 49 Code of Federal Regulations is hereby amended to read:

"(b) In the case of imported motor vehicles, the requirement of affixing a label or tag applies to importers of vehicles admitted to the United States under 19 CFR 12.80(b)(1) to which the required label or tag is not affixed."

Issued on October 7, 1983.

Diane K. Steed
Deputy Administrator

48 FR 46994
October 17, 1983

PREAMBLE TO AN AMENDMENT TO PART 567

Certification Requirements (Docket No. 83-02; Notice 2)

ACTION: Final rule.

SUMMARY: This notice amends NHTSA's safety certification regulations to permit the use of a simplified certification label by final-stage manufacturers of trucks manufactured in two or more stages. This action is being taken in response to a petition by the National Truck Equipment Association (NTEA), and is intended to reduce the administrative burdens imposed on final-stage manufacturers by the certification requirements.

DATES: This amendment is effective on November 8, 1983.

SUPPLEMENTARY INFORMATION: Section 114 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1403) requires each motor vehicle manufacturer to affix to each vehicle it produces a label certifying that the vehicle complies with all applicable Federal motor vehicle safety standards. NHTSA has promulgated regulations specifying the content and location of the required label. See 49 CFR Part 567.

In the case of motor vehicles that are manufactured in two or more stages, chassis-cab manufacturers and intermediate manufacturers who work with chassis cabs are also required to attach labels to their vehicles indicating the extent to which each has assisted in assuring the compliance of the vehicles with the safety standards. The requirements for labeling for the chassis-cab and intermediate manufacturers arose from the court decision in *Rex Chainbelt v. Brinegar*, 511 F. 2d 1215 (7th Cir. 1975), in which the court indicated that all manufacturers involved in the manufacturing process should certify compliance to the degree their work affects the vehicle. Prior to that decision, only the final-stage manufacturer certified the compliance of a multi-stage vehicle.

Part 567 requires chassis-cab, intermediate, and final-stage manufacturers to list those standards for which compliance is being certified on each vehicle's certification label. Final-stage manufacturers can avoid this time-consuming listing of standards by electing to use an abbreviated certification statement that simply indicates that their vehicles comply with all applicable motor vehicle safety standards. However, few final-stage manufacturers make this statement, because they fear potential product liability from making such a broad representation on the certification label. They fear that the statement could be construed as an assumption of responsibility for manufacturing steps conducted entirely by other companies.

On August 17, 1982, NTEA petitioned the agency to amend the labeling requirements for final-stage manufacturers to further simplify the label. NTEA pointed out that in most cases the final-stage manufacturer does not affect compliance with the standards that have been previously certified by the chassis-cab or intermediate vehicle manufacturer. Also, in most cases, they complete the vehicle in accordance with the instructions in the incomplete vehicle document supplied by the previous manufacturer. In these cases, the NTEA argued, the label could be generalized in such a manner that reference to specific standards could be completely deleted, with the final-stage manufacturer only certifying compliance with standards other than those certified by prior manufacturers. This would permit the development of a form label that would not require the time-consuming addition of significant amounts of specialized information by the final-stage manufacturer. This could reduce the burden of certifying for these manufacturers.

The NTEA recommended also that use of the existing, more complex label be retained as an option that can be used by any final-stage manufacturer. Under NTEA recommendations, the detailed label

would be used by those final-stage manufacturers who do not follow the instructions in the incomplete vehicle documents or who affect the compliance of standards that were previously certified by the chassis-cab or intermediate vehicle manufacturers.

On February 13, 1983, NHTSA published a notice granting the NTEA petition and proposing to amend the certification regulations in accordance with NTEA's request. See 48 FR 6565. Based on a review of the comments received concerning that notice and the agency's further consideration of the NTEA petition, the agency is adopting the proposed amendments without change.

Only two commenters recommended changes in the agency's proposal, one opposing the amendment and the other supporting it but suggesting that it be expanded. The National LP-Gas Association opposed the amendment on the basis that requiring final-stage manufacturers to list the standards for which they are certifying compliance assures that those manufacturers have at least some familiarity with those standards. They argue that for manufacturers who are familiar with the standards, the more detailed certification statement imposes no significant burden. The NLPGA feels that the proposed amendment will therefore only aid those final-stage manufacturers who are not concerned about compliance with safety standards.

The agency recognizes that the NLPGA argument has some merit. However, even without this amendment, final-stage manufacturers could certify compliance with all standards without listing the standards by number, by using the abbreviated label. This amendment only clarifies the existing provision by allowing a statement that the final-stage manufacturer is only certifying compliance with standards other than those certified by the chassis-cab manufacturer or the intermediate manufacturer. The agency believes that this clarification is implicit in the existing abbreviated certification option, in any case. Further, the listing of standards by number does not by itself assure any significant degree of familiarity with the standards.

Motor Truck Distributors, Inc., recommended a further simplification of the certification requirements by permitting final-stage manufacturers to eliminate gross vehicle weight rating and gross axle weight rating information from their certifica-

tion labels if the work they perform does not alter the existing ratings of the chassis manufacturer. However, the current regulations do not require chassis-cab manufacturers to list this weight rating information on their certification labels. Thus, adopting the MTD recommendation could result in situations in which those ratings would not appear anywhere on the vehicle. If the agency were to amend its requirements for chassis-cab manufacturers to specify that those manufacturers must list the weight rating information on their certification labels, conflicting rating values would appear on vehicles whose ratings were modified by either intermediate or final-stage manufacturers. These differing weight ratings could cause confusion for truck operators. Therefore, the agency is not adopting this recommendation.

The agency has determined there is good cause to make this amendment effective upon publication since it "relieves a restriction" within the meaning of 5 U.S.C. 553 (d). Manufacturers may continue to use their existing labels or choose to change to the new system. Accordingly, no adverse economic consequences will result from an immediate effective date.

Executive Order 12291

The agency has evaluated the economic and other effects of this amendment and has determined that it is not major as defined by Executive Order 12291 nor significant as defined by the Department of Transportation's regulatory policies and procedures. The amendment simply allows a shortened certification technique for final-stage manufacturers, but permits them to continue to certify in the same manner that they certify at present if they choose. The only economic result of this amendment might be a slight reduction in the cost of certification for those entities that choose the new certification format. Because the economic and other impacts of this rule are so minimal, a full regulatory evaluation is not being prepared.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, the agency has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the amendment will not have a significant economic impact on a substantial number of small en-

PREAMBLE TO AN AMENDMENT TO PART 567

Certification Requirements (Docket No. 83-02; Notice 2)

ACTION: Final rule.

SUMMARY: This notice amends NHTSA's safety certification regulations to permit the use of a simplified certification label by final-stage manufacturers of trucks manufactured in two or more stages. This action is being taken in response to a petition by the National Truck Equipment Association (NTEA), and is intended to reduce the administrative burdens imposed on final-stage manufacturers by the certification requirements.

DATES: This amendment is effective on November 8, 1983.

SUPPLEMENTARY INFORMATION: Section 114 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1403) requires each motor vehicle manufacturer to affix to each vehicle it produces a label certifying that the vehicle complies with all applicable Federal motor vehicle safety standards. NHTSA has promulgated regulations specifying the content and location of the required label. See 49 CFR Part 567.

In the case of motor vehicles that are manufactured in two or more stages, chassis-cab manufacturers and intermediate manufacturers who work with chassis cabs are also required to attach labels to their vehicles indicating the extent to which each has assisted in assuring the compliance of the vehicles with the safety standards. The requirements for labeling for the chassis-cab and intermediate manufacturers arose from the court decision in *Rex Chainbelt v. Brinegar*, 511 F. 2d 1215 (7th Cir. 1975), in which the court indicated that all manufacturers involved in the manufacturing process should certify compliance to the degree their work affects the vehicle. Prior to that decision, only the final-stage manufacturer certified the compliance of a multi-stage vehicle.

Part 567 requires chassis-cab, intermediate, and final-stage manufacturers to list those standards for which compliance is being certified on each vehicle's certification label. Final-stage manufacturers can avoid this time-consuming listing of standards by electing to use an abbreviated certification statement that simply indicates that their vehicles comply with all applicable motor vehicle safety standards. However, few final-stage manufacturers make this statement, because they fear potential product liability from making such a broad representation on the certification label. They fear that the statement could be construed as an assumption of responsibility for manufacturing steps conducted entirely by other companies.

On August 17, 1982, NTEA petitioned the agency to amend the labeling requirements for final-stage manufacturers to further simplify the label. NTEA pointed out that in most cases the final-stage manufacturer does not affect compliance with the standards that have been previously certified by the chassis-cab or intermediate vehicle manufacturer. Also, in most cases, they complete the vehicle in accordance with the instructions in the incomplete vehicle document supplied by the previous manufacturer. In these cases, the NTEA argued, the label could be generalized in such a manner that reference to specific standards could be completely deleted, with the final-stage manufacturer only certifying compliance with standards other than those certified by prior manufacturers. This would permit the development of a form label that would not require the time-consuming addition of significant amounts of specialized information by the final-stage manufacturer. This could reduce the burden of certifying for these manufacturers.

The NTEA recommended also that use of the existing, more complex label be retained as an option that can be used by any final-stage manufacturer. Under NTEA recommendations, the detailed label

would be used by those final-stage manufacturers who do not follow the instructions in the incomplete vehicle documents or who affect the compliance of standards that were previously certified by the chassis-cab or intermediate vehicle manufacturers.

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Only two commenters recommended changes in the agency's proposal, one opposing the amendment and the other supporting it but suggesting that it be expanded. The National LP-Gas Association opposed the amendment on the basis that requiring final-stage manufacturers to list the standards for which they are certifying compliance assures that those manufacturers have at least some familiarity with those standards. They argue that for manufacturers who are familiar with the standards, the more detailed certification statement imposes no significant burden. The NLPGA feels that the proposed amendment will therefore only aid those final-stage manufacturers who are not concerned about compliance with safety standards.

The agency recognizes that the NLPGA argument has some merit. However, even without this amendment, final-stage manufacturers could certify compliance with all standards without listing the standards by number, by using the abbreviated label. This amendment only clarifies the existing provision by allowing a statement that the final-stage manufacturer is only certifying compliance with standards other than those certified by the chassis-cab manufacturer or the intermediate manufacturer. The agency believes that this clarification is implicit in the existing abbreviated certification option, in any case. Further, the listing of standards by number does not by itself assure any significant degree of familiarity with the standards.

Motor Truck Distributors, Inc., recommended a further simplification of the certification requirements by permitting final-stage manufacturers to eliminate gross vehicle weight rating and gross axle weight rating information from their certifica-

tion labels if the work they perform does not alter the existing ratings of the chassis manufacturer. However, the current regulations do not require chassis-cab manufacturers to list this weight rating information on their certification labels. Thus, adopting the MTD recommendation could result in situations in which those ratings would not appear anywhere on the vehicle. If the agency were to amend its requirements for chassis-cab manufacturers to specify that those manufacturers must list the weight rating information on their certification labels, conflicting rating values would appear on vehicles whose ratings were modified by either intermediate or final-stage manufacturers. These differing weight ratings could cause confusion for truck operators. Therefore, the agency is not adopting this recommendation.

The agency has determined there is good cause to make this amendment effective upon publication since it "relieves a restriction" within the meaning of 5 U.S.C. 553 (d). Manufacturers may continue to use their existing labels or choose to change to the new system. Accordingly, no adverse economic consequences will result from an immediate effective date.

Executive Order 12291

The agency has evaluated the economic and other effects of this amendment and has determined that it is not major as defined by Executive Order 12291 nor significant as defined by the Department of Transportation's regulatory policies and procedures. The amendment simply allows a shortened certification technique for final-stage manufacturers, but permits them to continue to certify in the same manner that they certify at present if they choose. The only economic result of this amendment might be a slight reduction in the cost of certification for those entities that choose the new certification format. Because the economic and other impacts of this rule are so minimal, a full regulatory evaluation is not being prepared.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, the agency has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the amendment will not have a significant economic impact on a substantial number of small en-

tities. Accordingly, no regulatory flexibility analysis has been prepared.

While many of the final-stage manufacturers that will be affected by this amendment are considered small entities as defined by the Regulatory Flexibility Act, the effect on them, if any, would be negligible. The amendment would not impose any additional costs and might in fact slightly reduce costs for them. Most important, the amendment will potentially reduce confusion and complexity in the certification of their vehicles. Since the cost effects on manufacturers are minimal, the effects on vehicle prices, and thus on small organizations and governmental units that might purchase new multistage vehicles, are also negligible.

National Environmental Policy Act

The agency has also analyzed this amendment for the purposes of the National Environmental Policy Act. The agency has determined that the amendments to Part 567 will not have any significant effect on the quality of the human environment.

List of Subjects in 49 CFR 567:

Labeling, motor vehicle safety, motor vehicles, rubber and rubber products, reporting requirements.

In accordance with the foregoing, 49 CFR 567.5(c)(7) is revised to read as follows:
§ 567.5(c)(7).

(7) One of the following statements as appropriate. Statements (i), (ii), and (iii) are alternative certification statements. Statement (i) may be used by manufacturers meeting the requirements described in the instruction portion of that paragraph. Statements (ii) and (iii) may be used by any final-stage manufacturer.

(i) "Conformity of the chassis-cab to Federal Motor Vehicle Safety Standards, which have been previously fully certified by the incomplete vehicle manufacturer or intermediate vehicle manufacturer, has not been affected by final-stage manufacture. The vehicle has been completed in accordance with the prior manufacturer's instructions, where applicable. This vehicle conforms to all other applicable Federal Motor Vehicle Safety Standards in effect in (month, year)."

The preceding statement shall be used only in cases in which the final-stage manufacturer has: (A) not affected conformity to standards compliance which has been fully certified by a chassis-cab manufacturer pursuant to paragraph (a)(1) of this section or by an intermediate manufacturer pursuant to paragraphs (b)(1)(i) or (b)(1)(ii) of this section, and (B) has completed the vehicle in accordance with the prior manufacturer's instructions in regard to standards listed, as appropriate, in a chassis-cab manufacturer's conditional statement under paragraph (a)(2) of this section or in an intermediate manufacturer's conditional statement under paragraph (b)(2) of this section. The date shown in the third sentence of the statement shall be not earlier than the manufacturing date of the incomplete vehicle, and not later than the date of completion of final-stage manufacture.

(ii) "Conformity of the chassis-cab to Federal Motor Vehicle Safety Standards Nos. _____ has not been affected by final stage manufacture. With respect to Standards Nos. _____, the vehicle has been completed in accordance with the prior manufacturer's instructions. This vehicle conforms to all other applicable Federal Motor Vehicle Safety Standards in effect in (month, year)."

The first sentence of the preceding statement shall be completed by inserting the numbers of all or less than all the standards, and only those standards, respecting which the latest prior certification statement was made by a chassis-cab manufacturer pursuant to paragraph (a)(1) of this section or by an intermediate manufacturer pursuant to paragraphs (b)(1)(i) or (b)(1)(ii) of this section. The second sentence of the statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, respecting which the latest prior certification statement was a chassis-cab manufacturer's conditional statement under paragraph (a)(2) of this section or an intermediate manufacturer's conditional statement under paragraph (b)(2) of this section. The date shown in the third sentence of the statement shall be not earlier than the manufacturing date of the incomplete vehicle, and not later than the date of completion of final-stage manufacture.

(iii) "This vehicle conforms to all applicable Federal Motor Vehicle Safety Standards in effect in (month, year)."

The date shown shall be not earlier than the manufacturing date of the incomplete vehicle and not later than the date of completion of final-stage manufacture.

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Diane K. Steed
Deputy Administrator

48 FR 51308
November 8, 1983

ties. Accordingly, no regulatory flexibility analysis has been prepared.

While many of the final-stage manufacturers that will be affected by this amendment are considered small entities as defined by the Regulatory Flexibility Act, the effect on them, if any, would be negligible. The amendment would not impose any additional costs and might in fact slightly reduce costs for them. Most important, the amendment will potentially reduce confusion and complexity in the certification of their vehicles. Since the cost effects on manufacturers are minimal, the effects on vehicle prices, and thus on small organizations and governmental units that might purchase new multistage vehicles, are also negligible.

National Environmental Policy Act

The agency has also analyzed this amendment for the purposes of the National Environmental Policy Act. The agency has determined that the amendments to Part 567 will not have any significant effect on the quality of the human environment.

List of Subjects in 49 CFR 567:

Labeling, motor vehicle safety, motor vehicles, rubber and rubber products, reporting requirements.

In accordance with the foregoing, 49 CFR 567.5(c)(7) is revised to read as follows:
§ 567.5(c)(7).

(7) One of the following statements as appropriate. Statements (i), (ii), and (iii) are alternative certification statements. Statement (i) may be used by manufacturers meeting the requirements described in the instruction portion of that paragraph. Statements (ii) and (iii) may be used by any final-stage manufacturer.

(i) "Conformity of the chassis-cab to Federal Motor Vehicle Safety Standards, which have been previously fully certified by the incomplete vehicle manufacturer or intermediate vehicle manufacturer, has not been affected by final-stage manufacture. The vehicle has been completed in accordance with the prior manufacturer's instructions, where applicable. This vehicle conforms to all other applicable Federal Motor Vehicle Safety Standards in effect in (month, year)."

The preceding statement shall be used only in cases in which the final-stage manufacturer has: (A) not affected conformity to standards compliance which has been fully certified by a chassis-cab manufacturer pursuant to paragraph (a)(1) of this section or by an intermediate manufacturer pursuant to paragraphs (b)(1)(i) or (b)(1)(ii) of this section, and (B) has completed the vehicle in accordance with the prior manufacturer's instructions in regard to standards listed, as appropriate, in a chassis-cab manufacturer's conditional statement under paragraph (a)(2) of this section or in an intermediate manufacturer's conditional statement under paragraph (b)(2) of this section. The date shown in the third sentence of the statement shall be not earlier than the manufacturing date of the incomplete vehicle, and not later than the date of completion of final-stage manufacture.

(ii) "Conformity of the chassis-cab to Federal Motor Vehicle Safety Standards Nos. _____ has not been affected by final stage manufacture. With respect to Standards Nos. _____, the vehicle has been completed in accordance with the prior manufacturer's instructions. This vehicle conforms to all other applicable Federal Motor Vehicle Safety Standards in effect in (month, year)."

The first sentence of the preceding statement shall be completed by inserting the numbers of all or less than all the standards, and only those standards, respecting which the latest prior certification statement was made by a chassis-cab manufacturer pursuant to paragraph (a)(1) of this section or by an intermediate manufacturer pursuant to paragraphs (b)(1)(i) or (b)(1)(ii) of this section. The second sentence of the statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, respecting which the latest prior certification statement was a chassis-cab manufacturer's conditional statement under paragraph (a)(2) of this section or an intermediate manufacturer's conditional statement under paragraph (b)(2) of this section. The date shown in the third sentence of the statement shall be not earlier than the manufacturing date of the incomplete vehicle, and not later than the date of completion of final-stage manufacture.

(iii) "This vehicle conforms to all applicable Federal Motor Vehicle Safety Standards in effect in (month, year)."

The date shown shall be not earlier than the manufacturing date of the incomplete vehicle and not later than the date of completion of final-stage manufacture.

Issued on November 2, 1983.

Diane K. Steed
Deputy Administrator

48 FR 51308
November 8, 1983

PART 567—CERTIFICATION

(Dockets No. 73-31 and 75-28)

§ 567.1 Purpose and scope.

The purpose of this part is to specify the content and location of, and other requirements for, the label or tag to be affixed to motor vehicles required by section 114 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1403) (the Act) and by section 105(c)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. § 1915(c)(1)) (the Cost Savings Act), and to provide the consumer with information to assist him in determining which of the Federal Motor Vehicle Safety Standards (Part 571 of this chapter) (Standards) are applicable to the vehicle.

§ 567.2 Application.

(a) This part applies to manufacturers and distributors of motor vehicles to which one or more standards are applicable.

(b) [In the case of imported motor vehicles, the requirement of affixing a label or tag applies to importers of vehicles admitted to the United States under 19 CFR 12.80(b)(1) to which the required label or tag is not affixed. (48 F.R. 46994—October 17, 1983. Effective: October 17, 1983)]

§ 567.3 Definitions.

All terms that are defined in the Act and the rules and standards issued under its authority are used as defined therein. The term "bumper" has the meaning assigned to it in Title I of the Cost Savings Act and the rules and standards issued under its authority.

"Chassis-cab" means an incomplete vehicle, with a completed occupant compartment, that requires only the addition of cargo-carrying, work-performing, or load-bearing components to perform its intended functions.

§ 567.4 Requirements for manufacturers of motor vehicles.

(a) Each manufacturer of motor vehicles (except vehicles manufactured in two or more stages) shall affix to each vehicle a label, of the type and in the manner described below, containing the statements specified in paragraph (g) of this section.

(b) The label shall, unless riveted, be permanently affixed in such a manner that it cannot be removed without destroying or defacing it.

(c) Except for trailers and motorcycles, the label shall be affixed to either the hinge pillar, door-latch post, or the door edge that meets the door-latch post, next to the driver's seating position, or if none of these locations is practicable, to the left side of the instrument panel. If that location is also not practicable, the label shall be affixed to the inward-facing surface of the door next to the driver's seating position. If none of the preceding locations is practicable, notification of that fact, together with drawings or photographs showing a suggested alternate location in the same general area, shall be submitted for approval to the Administrator, National Highway Traffic Safety Administration, Washington, D.C. 20590. The location of the label shall be such that it is easily readable without moving any part of the vehicle except an outer door.

(d) The label for trailers shall be affixed to a location on the forward half of the left side, such that it is easily readable from outside the vehicle without moving any part of the vehicle.

(e) The label for motorcycles shall be affixed to a permanent member of the vehicle as close as is practicable to the intersection of the steering post with the handle bars, in a location such that it is easily readable without moving any part of the vehicle except the steering system.

(f) The lettering on the label shall be of a color that contrasts with the background of the label.

(g) The label shall contain the following statements, in the English language, lettered in block capitals and numerals not less than three thirty-seconds of an inch high, in the order shown:

(1) Name of manufacturer: Except as provided in (i), (ii), and (iii) below, the full corporate or individual name of the actual assembler of the vehicle shall be spelled out, except that such abbreviations as "Co." or "Inc." and their foreign equivalents, and the first and middle initials of individuals, may be used. The name of the manufacturer shall be preceded by the words "Manufactured By" or "Mfd By." In the case of imported vehicles, where the label required by this section is affixed by a person other than the final assembler of the vehicle, the corporate or individual name of the person affixing the label shall also be placed on the label in the manner described in this paragraph, directly below the name of the final assembler.

(i) If a vehicle is assembled by a corporation that is controlled by another corporation that assumes responsibility for conformity with the standards, the name of the controlling corporation may be used.

(ii) If a vehicle is fabricated and delivered in complete but unassembled form, such that it is designed to be assembled without special machinery or tools, the fabricator of the vehicle may affix the label and name itself as the manufacturer for the purposes of this section.

(iii) If a trailer is sold by a person who is not its manufacturer, but who is engaged in the manufacture of trailers and assumes legal responsibility for all duties and liabilities imposed by the Act with respect to that trailer, the name of that person may appear on the label as the manufacturer. In such a case the name shall be preceded by the words "Responsible Manufacturer" or "Resp Mfr."

(2) Month and year of manufacture: This shall be the time during which work was com-

pleted at the place of main assembly of the vehicle. It may be spelled out, as "June 1970," or expressed in numerals, as "6/70."

(3) "**GROSS VEHICLE WEIGHT RATING**" or "**GVWR**" followed by the appropriate value in pounds, which shall not be less than the sum of the unloaded vehicle weight, rated cargo load, and 150 pounds times the vehicle's designated seating capacity. However, for school buses the minimum occupant weight allowance shall be 120 pounds.

(4) "Gross Axle Weight Rating" or "**GAWR**" followed by the appropriate value in pounds, for each axle, identified in order from front to rear (e.g., front, first intermediate, second intermediate, rear). The ratings for any consecutive axles having identical gross axle weight ratings when equipped with tires having the same tire size designation may, at the option of the manufacturer, be stated as a single value, with the label indicating to which axles the ratings apply.

EXAMPLES OF COMBINED RATINGS GAWR:

(a) All axles—4080 with 7.00-15 LT(D) tires.

(b) Front—12,000 with 10.00-20 (G) tires.

First intermediate to rear—15,000 with 12.00-20 (H) tires.

(5) The statement: "This vehicle conforms to all applicable Federal motor vehicle safety standards in effect on the date of manufacture shown above." The expression "U.S." or "U.S.A." may be inserted before the word "Federal." However, in the case of passenger cars, the expression "and bumper"—

(i) May, at the option of the manufacturer, be included in the statement following the word "safety"; and

(ii) Shall be included in the statement following the word "safety" in the case of passenger cars manufactured on or after September 1, 1978.

(6) Vehicle identification number.

(7) The type classification of the vehicle as defined in § 571.3 of Title 49 of the Code of Federal Regulations (e.g., truck, MPV, bus, trailer).

PART 567—CERTIFICATION

(Dockets No. 73-31 and 75-28)

§ 567.1 Purpose and scope.

The purpose of this part is to specify the content and location of, and other requirements for, the label or tag to be affixed to motor vehicles required by section 114 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1403) (the Act) and by section 105(c)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. § 1915(c)(1)) (the Cost Savings Act), and to provide the consumer with information to assist him in determining which of the Federal Motor Vehicle Safety Standards (Part 571 of this chapter) (Standards) are applicable to the vehicle.

§ 567.2 Application.

(a) This part applies to manufacturers and distributors of motor vehicles to which one or more standards are applicable.

(b) [In the case of imported motor vehicles, the requirement of affixing a label or tag applies to importers of vehicles admitted to the United States under 19 CFR 12.80(b)(1) to which the required label or tag is not affixed. (48 F.R. 46994—October 17, 1983. Effective: October 17, 1983)]

§ 567.3 Definitions.

All terms that are defined in the Act and the rules and standards issued under its authority are used as defined therein. The term "bumper" has the meaning assigned to it in Title I of the Cost Savings Act and the rules and standards issued under its authority.

"Chassis-cab" means an incomplete vehicle, with a completed occupant compartment, that requires only the addition of cargo-carrying, work-performing, or load-bearing components to perform its intended functions.

§ 567.4 Requirements for manufacturers of motor vehicles.

(a) Each manufacturer of motor vehicles (except vehicles manufactured in two or more stages) shall affix to each vehicle a label, of the type and in the manner described below, containing the statements specified in paragraph (g) of this section.

(b) The label shall, unless riveted, be permanently affixed in such a manner that it cannot be removed without destroying or defacing it.

(c) Except for trailers and motorcycles, the label shall be affixed to either the hinge pillar, door-latch post, or the door edge that meets the door-latch post, next to the driver's seating position, or if none of these locations is practicable, to the left side of the instrument panel. If that location is also not practicable, the label shall be affixed to the inward-facing surface of the door next to the driver's seating position. If none of the preceding locations is practicable, notification of that fact, together with drawings or photographs showing a suggested alternate location in the same general area, shall be submitted for approval to the Administrator, National Highway Traffic Safety Administration, Washington, D.C. 20590. The location of the label shall be such that it is easily readable without moving any part of the vehicle except an outer door.

(d) The label for trailers shall be affixed to a location on the forward half of the left side, such that it is easily readable from outside the vehicle without moving any part of the vehicle.

(e) The label for motorcycles shall be affixed to a permanent member of the vehicle as close as is practicable to the intersection of the steering post with the handle bars, in a location such that it is easily readable without moving any part of the vehicle except the steering system.

(f) The lettering on the label shall be of a color that contrasts with the background of the label.

(g) The label shall contain the following statements, in the English language, lettered in block capitals and numerals not less than three thirty-seconds of an inch high, in the order shown:

(1) Name of manufacturer: Except as provided in (i), (ii), and (iii) below, the full corporate or individual name of the actual assembler of the vehicle shall be spelled out, except that such abbreviations as "Co." or "Inc." and their foreign equivalents, and the first and middle initials of individuals, may be used. The name of the manufacturer shall be preceded by the words "Manufactured By" or "Mfd By." In the case of imported vehicles, where the label required by this section is affixed by a person other than the final assembler of the vehicle, the corporate or individual name of the person affixing the label shall also be placed on the label in the manner described in this paragraph, directly below the name of the final assembler.

(i) If a vehicle is assembled by a corporation that is controlled by another corporation that assumes responsibility for conformity with the standards, the name of the controlling corporation may be used.

(ii) If a vehicle is fabricated and delivered in complete but unassembled form, such that it is designed to be assembled without special machinery or tools, the fabricator of the vehicle may affix the label and name itself as the manufacturer for the purposes of this section.

(iii) If a trailer is sold by a person who is not its manufacturer, but who is engaged in the manufacture of trailers and assumes legal responsibility for all duties and liabilities imposed by the Act with respect to that trailer, the name of that person may appear on the label as the manufacturer. In such a case the name shall be preceded by the words "Responsible Manufacturer" or "Resp Mfr."

(2) Month and year of manufacture: This shall be the time during which work was com-

pleted at the place of main assembly of the vehicle. It may be spelled out, as "June 1970," or expressed in numerals, as "6/70."

(3) "**GROSS VEHICLE WEIGHT RATING**" or "**GVWR**" followed by the appropriate value in pounds, which shall not be less than the sum of the unloaded vehicle weight, rated cargo load, and 150 pounds times the vehicle's designated seating capacity. However, for school buses the minimum occupant weight allowance shall be 120 pounds.

(4) "Gross Axle Weight Rating" or "**GAWR**" followed by the appropriate value in pounds, for each axle, identified in order from front to rear (e.g., front, first intermediate, second intermediate, rear). The ratings for any consecutive axles having identical gross axle weight ratings when equipped with tires having the same tire size designation may, at the option of the manufacturer, be stated as a single value, with the label indicating to which axles the ratings apply.

EXAMPLES OF COMBINED RATINGS GAWR:

(a) All axles—4080 with 7.00-15 LT(D) tires.

(b) Front—12,000 with 10.00-20 (G) tires.

First intermediate to rear—15,000 with 12.00-20 (H) tires.

(5) The statement: "This vehicle conforms to all applicable Federal motor vehicle safety standards in effect on the date of manufacture shown above." The expression "U.S." or "U.S.A." may be inserted before the word "Federal." However, in the case of passenger cars, the expression "and bumper"—

(i) May, at the option of the manufacturer, be included in the statement following the word "safety"; and

(ii) Shall be included in the statement following the word "safety" in the case of passenger cars manufactured on or after September 1, 1978.

(6) Vehicle identification number.

(7) The type classification of the vehicle as defined in § 571.3 of Title 49 of the Code of Federal Regulations (e.g., truck, MPV, bus, trailer).

(h) Multiple GVWR-GAWR ratings.

(1) (For passenger cars only) In cases where different tire sizes are offered as a customer option, a manufacturer may at his option list more than one set of values for GVWR and GAWR, in response to the requirements of paragraphs (g)(3) and (4) of this section. If the label shows more than one set of weight rating values, each value shall be followed by the phrase "with _____ tires," inserting the proper tire size designations. A manufacturer may at his option list one or more tire sizes where only one set of weight ratings is provided.

Passenger Car Example

GVWR:

4400 LB with G78-14B Tires. 4800 LB with H78-14B Tires.

GAWR:

Front—2000 LB with G78-14B Tires at 24 psi, 2200 LB with H78-14B Tires at 24 psi.

Rear—2400 LB with G78-Tires at 28 psi, 2600 LB with H78-14B Tires at 28 psi.

(2) (For multipurpose passenger vehicles, trucks, buses, trailers, and motorcycles) The manufacturer may, at its option, list more than one GVWR-GAWR-tire-rim-combination on the label, as long as the list conforms in content and format to the requirements for tire-rim-inflation information set forth in Standard No. 120 of this chapter (§ 571.120).

(3) At the option of the manufacturer, additional GVWR-GAWR ratings for operation of the vehicle at reduced speeds may be listed at the bottom of the certification label following any information that is required to be listed.

(i) A manufacturer may, at his option, provide information concerning which tables in the document that accompanies the vehicle pursuant to § 575.6(a) of this chapter apply to the vehicle. This information may not precede or interrupt the information required by paragraph (g).

§ 567.5 Requirements for manufacturers of vehicles manufactured in two or more stages.

(a) Except as provided in paragraph (e) of this section, each manufacturer of a chassis-cab

shall affix a label to each chassis-cab manufactured on or after July 25, 1978, in the location and form specified in § 567.4, that contains the following statements, to the extent that they are applicable.

(1) "This chassis-cab conforms to Federal Motor Vehicle Safety Standard Nos. _____." The statement shall be completed by inserting the numbers of the safety standards (e.g., 101, 207) to which the chassis-cab conforms.

(2) "This vehicle will conform to Standard Nos. _____ if it is completed in accordance with the instructions contained in the incomplete vehicle document furnished pursuant to 49 CFR Part 568." The statement shall be completed by inserting the numbers of the safety standards conformity to which is substantially affected by both the design of the chassis-cab and the manner in which the vehicle is completed (i.e., the standards listed under category (ii) in paragraph 568.4(a)(7) of this chapter).

(3) "Conformity to the other safety standards applicable to this vehicle when completed is not substantially affected by the design of the chassis-cab."

(4) Name of chassis-cab manufacturer preceded by the words "CHASSIS-CAB MANUFACTURED BY" or "CHASSIS-CAB MFD BY".

(5) Month and year of manufacture of chassis-cab. This may be spelled out, as in "June 1970", or expressed in numerals, as in "6/70". No preface is required.

(b) Except as provided in paragraphs (e) and (f) of this section, each intermediate manufacturer of a vehicle manufactured in two or more stages shall affix a label, in the location and form specified in § 567.4, to each chassis-cab respecting which he is required by § 568.5 to furnish an addendum to the incomplete vehicle document described in § 568.4. However, this paragraph applies only to chassis-cabs that have been certified by a chassis-cab manufacturer in accordance with paragraph (a) of this section. The label shall contain the following statements as appropriate:

(1) (i) "With respect to Standard Nos. _____, the instructions of prior manufacturers have been followed so that the chassis-cab now conforms to these standards." The statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, respecting which the latest prior certification statement was in the form prescribed in paragraphs (a) (2) or (b) (2) of this section.

(ii) "This chassis-cab conforms to Federal Motor Vehicle Safety Standard Nos. _____." The statement shall be completed by inserting the numbers of the other standards to which the chassis-cab conforms, excluding those standards respecting which the latest prior certification statement was in the form prescribed in paragraphs (a) (1), (b) (1) (i), or this paragraph.

(2) "This vehicle will conform to Standard Nos. _____ if it is completed in accordance with the instructions contained in the amended incomplete vehicle document furnished pursuant to 49 CFR Part 568." The statement shall be completed by inserting the numbers of the standards conformity to which is substantially affected by both the design of the chassis-cab (as modified by the intermediate manufacturer) and the manner in which the vehicle is completed.

(3) "Conformity to Standard Nos. _____ is no longer substantially affected by the design of this chassis-cab." The statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, respecting which the latest prior certification statement was in the form prescribed in paragraphs (a) (1), (a) (2), (b) (1) (i), (b) (1) (B), or (b) (2) of this section.

(4) Name of intermediate manufacturer, preceded by the words "INTERMEDIATE MANUFACTURE BY" or "INTERMEDIATE MFR BY".

(5) Month and year in which the intermediate manufacturer performed his last manufacturing operation on the chassis-cab. This may be spelled out, as "JUNE 1970", or expressed as numerals, as "6/70". No preface is required.

(c) Except as provided in paragraphs (e) and (f) of this section, each final-stage manufacturer, as defined in § 568.3 of Title 49 of the Code of Federal Regulations, of a vehicle manufactured in two or more stages shall affix to each vehicle a label, of

the type and in the manner and form described in § 567.4 of this part, containing the following statements:

(1) Name of final-stage manufacturer, preceded by the words "MANUFACTURED BY" or "MFD BY".

(2) Month and year in which final-stage manufacture is completed. This may be spelled out, as in "JUNE 1970", or expressed in numerals, as in "6/70". No preface is required.

(3) Name of original manufacturer of the incomplete vehicle, preceded by the words "INCOMPLETE VEHICLE MANUFACTURED BY" or "INC VEH MFD BY". This item and item (4) may be omitted in cases where the incomplete vehicle was a chassis-cab.

(4) Month and year in which the original manufacturer of the incomplete vehicle performed his last manufacturing operation on the incomplete vehicle, in the same form as (2) above.

(5) "GROSS VEHICLE WEIGHT RATING" or "GVWR", followed by the appropriate value in pounds, which shall not be less than the sum of the unloaded vehicle weight, rated cargo load, and 150 pounds times the vehicle's designated seating capacity. However, for school buses the minimum occupant weight allowance shall be 120 pounds.

(6) "GROSS AXLE WEIGHT RATING" or "GAWR", followed by the appropriate value in pounds for each axle, identified in order from front to rear (*e.g.*, front, first intermediate, second intermediate, rear). The ratings for any consecutive axles having identical gross axle weight ratings when equipped with tires having the same tire size designation may be stated as a single value, with the label indicating to which axles the ratings apply.

Examples of Combined Ratings

GAWR:

- (a) All axles—4080 with 7.00-15 LT(D) tires.
- (b) Front—12,000 with 10.00-20 (G) tires.

First intermediate to rear—15,000 with 12.00-20 (H) tires.

(7) [One of the following statements as appropriate. Statements (i),(ii), and (iii) are alternative certification statements. Statement (i) may be used by manufacturers meeting the re-

(h) Multiple GVWR-GAWR ratings.

(1) (For passenger cars only) In cases where different tire sizes are offered as a customer option, a manufacturer may at his option list more than one set of values for GVWR and GAWR, in response to the requirements of paragraphs (g)(3) and (4) of this section. If the label shows more than one set of weight rating values, each value shall be followed by the phrase "with _____ tires," inserting the proper tire size designations. A manufacturer may at his option list one or more tire sizes where only one set of weight ratings is provided.

Passenger Car Example

GVWR:

4400 LB with G78-14B Tires. 4800 LB with H78-14B Tires.

GAWR:

Front—2000 LB with G78-14B Tires at 24 psi, 2200 LB with H78-14B Tires at 24 psi.

Rear—2400 LB with G78-Tires at 28 psi, 2600 LB with H78-14B Tires at 28 psi.

(2) (For multipurpose passenger vehicles, trucks, buses, trailers, and motorcycles) The manufacturer may, at its option, list more than one GVWR-GAWR-tire-rim-combination on the label, as long as the list conforms in content and format to the requirements for tire-rim-inflation information set forth in Standard No. 120 of this chapter (§ 571.120).

(3) At the option of the manufacturer, additional GVWR-GAWR ratings for operation of the vehicle at reduced speeds may be listed at the bottom of the certification label following any information that is required to be listed.

(i) A manufacturer may, at his option, provide information concerning which tables in the document that accompanies the vehicle pursuant to § 575.6(a) of this chapter apply to the vehicle. This information may not precede or interrupt the information required by paragraph (g).

§ 567.5 Requirements for manufacturers of vehicles manufactured in two or more stages.

(a) Except as provided in paragraph (e) of this section, each manufacturer of a chassis-cab

shall affix a label to each chassis-cab manufactured on or after July 25, 1978, in the location and form specified in § 567.4, that contains the following statements, to the extent that they are applicable.

(1) "This chassis-cab conforms to Federal Motor Vehicle Safety Standard Nos. _____." The statement shall be completed by inserting the numbers of the safety standards (e.g., 101, 207) to which the chassis-cab conforms.

(2) "This vehicle will conform to Standard Nos. _____ if it is completed in accordance with the instructions contained in the incomplete vehicle document furnished pursuant to 49 CFR Part 568." The statement shall be completed by inserting the numbers of the safety standards conformity to which is substantially affected by both the design of the chassis-cab and the manner in which the vehicle is completed (i.e., the standards listed under category (ii) in paragraph 568.4(a)(7) of this chapter).

(3) "Conformity to the other safety standards applicable to this vehicle when completed is not substantially affected by the design of the chassis-cab."

(4) Name of chassis-cab manufacturer preceded by the words "CHASSIS-CAB MANUFACTURED BY" or "CHASSIS-CAB MFD BY".

(5) Month and year of manufacture of chassis-cab. This may be spelled out, as in "June 1970", or expressed in numerals, as in "6/70". No preface is required.

(b) Except as provided in paragraphs (e) and (f) of this section, each intermediate manufacturer of a vehicle manufactured in two or more stages shall affix a label, in the location and form specified in § 567.4, to each chassis-cab respecting which he is required by § 568.5 to furnish an addendum to the incomplete vehicle document described in § 568.4. However, this paragraph applies only to chassis-cabs that have been certified by a chassis-cab manufacturer in accordance with paragraph (a) of this section. The label shall contain the following statements as appropriate:

(1) (i) "With respect to Standard Nos. _____, the instructions of prior manufacturers have been followed so that the chassis-cab now conforms to these standards." The statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, respecting which the latest prior certification statement was in the form prescribed in paragraphs (a) (2) or (b) (2) of this section.

(ii) "This chassis-cab conforms to Federal Motor Vehicle Safety Standard Nos. _____." The statement shall be completed by inserting the numbers of the other standards to which the chassis-cab conforms, excluding those standards respecting which the latest prior certification statement was in the form prescribed in paragraphs (a) (1), (b) (1) (i), or this paragraph.

(2) "This vehicle will conform to Standard Nos. _____ if it is completed in accordance with the instructions contained in the amended incomplete vehicle document furnished pursuant to 49 CFR Part 568." The statement shall be completed by inserting the numbers of the standards conformity to which is substantially affected by both the design of the chassis-cab (as modified by the intermediate manufacturer) and the manner in which the vehicle is completed.

(3) "Conformity to Standard Nos. _____ is no longer substantially affected by the design of this chassis-cab." The statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, respecting which the latest prior certification statement was in the form prescribed in paragraphs (a) (1), (a) (2), (b) (1) (i), (b) (1) (B), or (b) (2) of this section.

(4) Name of intermediate manufacturer, preceded by the words "INTERMEDIATE MANUFACTURE BY" or "INTERMEDIATE MFR BY".

(5) Month and year in which the intermediate manufacturer performed his last manufacturing operation on the chassis-cab. This may be spelled out, as "JUNE 1970", or expressed as numerals, as "6/70". No preface is required.

(c) Except as provided in paragraphs (e) and (f) of this section, each final-stage manufacturer, as defined in § 568.3 of Title 49 of the Code of Federal Regulations, of a vehicle manufactured in two or more stages shall affix to each vehicle a label, of

the type and in the manner and form described in § 567.4 of this part, containing the following statements:

(1) Name of final-stage manufacturer, preceded by the words "MANUFACTURED BY" or "MFD BY".

(2) Month and year in which final-stage manufacture is completed. This may be spelled out, as in "JUNE 1970", or expressed in numerals, as in "6/70". No preface is required.

(3) Name of original manufacturer of the incomplete vehicle, preceded by the words "INCOMPLETE VEHICLE MANUFACTURED BY" or "INC VEH MFD BY". This item and item (4) may be omitted in cases where the incomplete vehicle was a chassis-cab.

(4) Month and year in which the original manufacturer of the incomplete vehicle performed his last manufacturing operation on the incomplete vehicle, in the same form as (2) above.

(5) "GROSS VEHICLE WEIGHT RATING" or "GVWR", followed by the appropriate value in pounds, which shall not be less than the sum of the unloaded vehicle weight, rated cargo load, and 150 pounds times the vehicle's designated seating capacity. However, for school buses the minimum occupant weight allowance shall be 120 pounds.

(6) "GROSS AXLE WEIGHT RATING" or "GAWR", followed by the appropriate value in pounds for each axle, identified in order from front to rear (e.g., front, first intermediate, second intermediate, rear). The ratings for any consecutive axles having identical gross axle weight ratings when equipped with tires having the same tire size designation may be stated as a single value, with the label indicating to which axles the ratings apply.

Examples of Combined Ratings

GAWR:

- (a) All axles—4080 with 7.00-15 LT(D) tires.
- (b) Front—12,000 with 10.00-20 (G) tires.

First intermediate to rear—15,000 with 12.00-20 (H) tires.

(7) [One of the following statements as appropriate. Statements (i), (ii), and (iii) are alternative certification statements. Statement (i) may be used by manufacturers meeting the re-

quirements described in the instruction portion of that paragraph. Statements (ii) and (iii) may be used by any final-stage manufacturer.

(i) "Conformity of the chassis-cab to Federal Motor Vehicle Safety Standards, which have been previously fully certified by the incomplete vehicle manufacturer or intermediate vehicle manufacturer, has not been affected by final-stage manufacture. The vehicle has been completed in accordance with the prior manufacturer's instructions, where applicable. This vehicle conforms to all other applicable Federal Motor Vehicle Safety Standards in effect in (month, year)."

The preceding statement shall be used only in cases in which the final-stage manufacturer has: (A) not affected conformity to standards compliance with which has been fully certified by a chassis-cab manufacturer pursuant to paragraph (a) (1) of this section or by an intermediate manufacturer pursuant to paragraphs (b) (1) (i) or (b) (1) (ii) of this section, and (B) has completed the vehicle in accordance with the prior manufacturer's instructions in regard to standards listed, as appropriate, in a chassis-cab manufacturer's conditional statement under paragraph (a) (2) of this section or in an intermediate manufacturer's conditional statement under paragraph (b) (2) of this section. The date shown in the third sentence of the statement shall be not earlier than the manufacturing date of the incomplete vehicle, and not later than the date of completion of final-stage manufacture.

(ii) "Conformity of the chassis-cab to Federal Motor Vehicle Safety Standards Nos. _____ has not been affected by final stage manufacture. With respect to Standards Nos. _____, the vehicle has been completed in accordance with the prior manufacturer's instructions. This vehicle conforms to all other applicable Federal Motor Vehicle Safety Standards in effect in (month, year)."

The first sentence of the preceding statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, respecting which the latest prior certification statement was made by a chassis-cab manufacturer pursuant to

paragraph (a) (1) of this section or by an intermediate manufacturer pursuant to paragraphs (b) (1) (i) or (b) (1) (ii) of this section. The second sentence of the statement shall be completed by inserting the numbers of all or less than all of the standards and only those standards, respecting which the latest prior certification statement was a chassis-cab manufacturer's conditional statement under paragraph (a) (2) of this section or an intermediate manufacturer's conditional statement under paragraph (b) (2) of this section. The date shown in the third sentence of the statement shall be not earlier than the manufacturing date of the incomplete vehicle, and not later than the date of completion of final-stage manufacture.

(iii) "This vehicle conforms to all applicable Federal Motor Vehicle Safety Standards in effect in (month, year)."

The date shown shall be not earlier than the manufacturing date of the incomplete vehicle and not later than the date of completion of final-stage manufacture. (48 F.R. 51308—November 8, 1983. Effective: November 8, 1983)]

(8) Vehicle identification number.

(9) The type classification of the vehicle as defined in § 571.3 of Title 49 of the Code of Federal Regulations (*e.g.*, truck, MPV, bus, trailer).

(d) More than one set of figures for GVWR and GAWR, and one or more tire sizes, may be listed in satisfaction of the requirements of paragraphs (c) (5) and (6) of this section, as provided in § 567.4(h).

(e) If an incomplete vehicle manufacturer assumes legal responsibility for all duties and liabilities imposed by the Act, with respect to the vehicle as finally manufactured, the incomplete vehicle manufacturer shall ensure that a label is affixed to the final vehicle in conformity with paragraph (c) of this section, except that the name of the incomplete vehicle manufacturer shall appear instead of the name of the final-stage manufacturer after the words "MANUFACTURED BY" or "MFD BY" required by subparagraph (c) (1) of this section, the additional manufacturer's name required by subparagraph (c) (3) of this section shall be omitted, and the date required by subparagraph (c) (4) of this section

shall be preceded by the words "INCOMPLETE VEHICLE MANUFACTURED" or "INC VEH MFD."

(f) If an intermediate manufacturer of a vehicle assumes legal responsibility for all duties and liabilities imposed on manufacturers by the Act, with respect to the vehicle as finally manufactured, the intermediate manufacturer shall ensure that a label is affixed to the final vehicle in conformity with paragraph (c) of this section, except that the name of the intermediate manufacturer shall appear instead of the name of the final-stage manufacturer after the words "MANUFACTURED BY" or "MFD BY" required by subparagraph (c) (1) of this section.

§ 567.6 Requirements for persons who do not alter certified vehicles or do so with readily attachable components.

A person who does not alter a motor vehicle or who alters such a vehicle only by the addition, substitution, or removal of readily attachable components such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, in such a manner that the vehicle's stated weight ratings are still valid, need not affix a label to the vehicle, but shall allow a manufacturer's label that conforms to the requirements of this part to remain affixed to the vehicle. If such a person is a distributor of the motor vehicle, allowing the manufacturer's label to remain affixed to the vehicle shall satisfy the distributor's certification requirements under the Act.

§ 567.7 Requirements for persons who alter certified vehicles.

A person who alters a vehicle that has previously been certified in accordance with § 567.4 or § 567.5, other than by the addition, substitution, or removal of readily attachable components such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, or who alters

the vehicle in such a manner that its stated weight ratings are no longer valid, before the first purchase of the vehicle in good faith for purposes other than resale, shall allow the original certification label to remain on the vehicle, and shall affix to the vehicle an additional label of the type and in the manner and form described in § 567.4, containing the following information:

(a) The statement: "This vehicle was altered by (individual or corporate name) in (month and year in which alterations were completed) and as altered it conforms to all applicable Federal Motor Vehicle Safety Standards affected by the alteration and in effect in (month, year)." The second date shall be no earlier than the manufacturing date of the original vehicle, and no later than the date alterations were completed. However, in the case of passenger cars, the expression "and bumper"—

(1) May, at the option of the manufacturer, be included in the statement following the word "safety"; and

(2) Shall be included in the statement following the word "safety" in the case of passenger cars manufactured on or after September 1, 1978.

(b) If the gross vehicle weight rating or any of the gross axle weight ratings of the vehicle as altered are different from those shown on the original certification label, the modified values shall be provided in the form specified in § 567.4(g) (3) and (4).

(c) If the vehicle as altered has a different type classification from that shown on the original certification label, the type as modified shall be provided.

36 F.R. 7054
April 14, 1971

quirements described in the instruction portion of that paragraph. Statements (ii) and (iii) may be used by any final-stage manufacturer.

(i) "Conformity of the chassis-cab to Federal Motor Vehicle Safety Standards, which have been previously fully certified by the incomplete vehicle manufacturer or intermediate vehicle manufacturer, has not been affected by final-stage manufacture. The vehicle has been completed in accordance with the prior manufacturer's instructions, where applicable. This vehicle conforms to all other applicable Federal Motor Vehicle Safety Standards in effect in (month, year)."

The preceding statement shall be used only in cases in which the final-stage manufacturer has: (A) not affected conformity to standards compliance with which has been fully certified by a chassis-cab manufacturer pursuant to paragraph (a) (1) of this section or by an intermediate manufacturer pursuant to paragraphs (b) (1) (i) or (b) (1) (ii) of this section, and (B) has completed the vehicle in accordance with the prior manufacturer's instructions in regard to standards listed, as appropriate, in a chassis-cab manufacturer's conditional statement under paragraph (a) (2) of this section or in an intermediate manufacturer's conditional statement under paragraph (b) (2) of this section. The date shown in the third sentence of the statement shall be not earlier than the manufacturing date of the incomplete vehicle, and not later than the date of completion of final-stage manufacture.

(ii) "Conformity of the chassis-cab to Federal Motor Vehicle Safety Standards Nos. _____ has not been affected by final stage manufacture. With respect to Standards Nos. _____, the vehicle has been completed in accordance with the prior manufacturer's instructions. This vehicle conforms to all other applicable Federal Motor Vehicle Safety Standards in effect in (month, year)."

The first sentence of the preceding statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, respecting which the latest prior certification statement was made by a chassis-cab manufacturer pursuant to

paragraph (a) (1) of this section or by an intermediate manufacturer pursuant to paragraphs (b) (1) (i) or (b) (1) (ii) of this section. The second sentence of the statement shall be completed by inserting the numbers of all or less than all of the standards and only those standards, respecting which the latest prior certification statement was a chassis-cab manufacturer's conditional statement under paragraph (a) (2) of this section or an intermediate manufacturer's conditional statement under paragraph (b) (2) of this section. The date shown in the third sentence of the statement shall be not earlier than the manufacturing date of the incomplete vehicle, and not later than the date of completion of final-stage manufacture.

(iii) "This vehicle conforms to all applicable Federal Motor Vehicle Safety Standards in effect in (month, year)."

The date shown shall be not earlier than the manufacturing date of the incomplete vehicle and not later than the date of completion of final-stage manufacture. (48 F.R. 51308—November 8, 1983. Effective: November 8, 1983)】

(8) Vehicle identification number.

(9) The type classification of the vehicle as defined in § 571.3 of Title 49 of the Code of Federal Regulations (*e.g.*, truck, MPV, bus, trailer).

(d) More than one set of figures for GVWR and GAWR, and one or more tire sizes, may be listed in satisfaction of the requirements of paragraphs (c) (5) and (6) of this section, as provided in § 567.4(h).

(e) If an incomplete vehicle manufacturer assumes legal responsibility for all duties and liabilities imposed by the Act, with respect to the vehicle as finally manufactured, the incomplete vehicle manufacturer shall ensure that a label is affixed to the final vehicle in conformity with paragraph (c) of this section, except that the name of the incomplete vehicle manufacturer shall appear instead of the name of the final-stage manufacturer after the words "MANUFACTURED BY" or "MFD BY" required by subparagraph (c) (1) of this section, the additional manufacturer's name required by subparagraph (c) (3) of this section shall be omitted, and the date required by subparagraph (c) (4) of this section

shall be preceded by the words "INCOMPLETE VEHICLE MANUFACTURED" or "INC VEH MFD."

(f) If an intermediate manufacturer of a vehicle assumes legal responsibility for all duties and liabilities imposed on manufacturers by the Act, with respect to the vehicle as finally manufactured, the intermediate manufacturer shall ensure that a label is affixed to the final vehicle in conformity with paragraph (c) of this section, except that the name of the intermediate manufacturer shall appear instead of the name of the final-stage manufacturer after the words "MANUFACTURED BY" or "MFD BY" required by subparagraph (c) (1) of this section.

§ 567.6 Requirements for persons who do not alter certified vehicles or do so with readily attachable components.

A person who does not alter a motor vehicle or who alters such a vehicle only by the addition, substitution, or removal of readily attachable components such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, in such a manner that the vehicle's stated weight ratings are still valid, need not affix a label to the vehicle, but shall allow a manufacturer's label that conforms to the requirements of this part to remain affixed to the vehicle. If such a person is a distributor of the motor vehicle, allowing the manufacturer's label to remain affixed to the vehicle shall satisfy the distributor's certification requirements under the Act.

§ 567.7 Requirements for persons who alter certified vehicles.

A person who alters a vehicle that has previously been certified in accordance with § 567.4 or § 567.5, other than by the addition, substitution, or removal of readily attachable components such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, or who alters

the vehicle in such a manner that its stated weight ratings are no longer valid, before the first purchase of the vehicle in good faith for purposes other than resale, shall allow the original certification label to remain on the vehicle, and shall affix to the vehicle an additional label of the type and in the manner and form described in § 567.4, containing the following information:

(a) The statement: "This vehicle was altered by (individual or corporate name) in (month and year in which alterations were completed) and as altered it conforms to all applicable Federal Motor Vehicle Safety Standards affected by the alteration and in effect in (month, year)." The second date shall be no earlier than the manufacturing date of the original vehicle, and no later than the date alterations were completed. However, in the case of passenger cars, the expression "and bumper"—

(1) May, at the option of the manufacturer, be included in the statement following the word "safety"; and

(2) Shall be included in the statement following the word "safety" in the case of passenger cars manufactured on or after September 1, 1978.

(b) If the gross vehicle weight rating or any of the gross axle weight ratings of the vehicle as altered are different from those shown on the original certification label, the modified values shall be provided in the form specified in § 567.4(g) (3) and (4).

(c) If the vehicle as altered has a different type classification from that shown on the original certification label, the type as modified shall be provided.

36 F.R. 7054
April 14, 1971

PREAMBLE TO PART 568—VEHICLES MANUFACTURED IN TWO OR MORE STAGES

(Dockets No. 70-6, 70-8, and 70-15)

This notice adopts a new Part 568 in Title 49, Code of Federal Regulations, to require the furnishing of information relevant to a vehicle's conformity to motor vehicle safety standards, and makes complementary changes in the certification regulations in Part 567 of that title and in Part 571. It also amends the certification regulations with respect to the manufacturer whose name must appear on the label for trailers and with respect to the information that must appear on the label for all vehicles. Notices of proposed rulemaking on these subjects were published on March 17, 1970 (35 F.R. 4639), May 1, 1970 (35 F.R. 6969), and June 13, 1970 (35 F.R. 9293). The comments received in response to these notices, and the statements made at the public meeting on vehicles manufactured in two or more stages (September 18, 1970; 35 F.R. 13139) have been considered in this issuance of a final rule.

In adopting the new Part 568, *Vehicles Manufactured in Two or More Stages*, in a form similar to that proposed in the March 17 notice, the Administration has determined that there is a need to regulate the relationships between manufacturers of multi-stage vehicles to the extent those relationships affect the conformity of the final vehicle to the motor vehicle safety standards, and that the regulation will meet this need with a minimum disruption of established industry practices. Comments received from persons who would occupy the positions of intermediate and final-stage manufacturers were substantially in favor of the proposal.

The definitions by which the regulation establishes the categories of "incomplete vehicle," "completed vehicle," and the three categories of vehicle manufacturers provide a framework within which each may categorize himself and his products. Of necessity, the definitions are

broad and may not clearly define individual situations. The primary distinction between the incomplete vehicle and the completed vehicle is whether the vehicle can perform its intended function without further manufacturing operations other than the addition of readily attachable components or minor finishing operations. The comments indicated there may sometimes be a close question as to whether or not a missing component is "readily attachable." How the question is answered may determine the vehicle's status as a "completed vehicle," or an "incomplete vehicle" and the corresponding status of the manufacturers involved. It has not been found feasible or desirable at this time to regulate the numerous variations in relationships that may develop. In the usual case, it will be possible for the affected manufacturers to reach agreement between themselves as to their respective obligations.

The largest number of comments were directed at the section (§ 568.4) establishing requirements for incomplete vehicle manufacturers. That section provides, first, that an incomplete vehicle manufacturer must furnish a document with the vehicle to contain the information specified by the section. The document may be attached to the vehicle in such a manner that it will not be inadvertently detached, or it may be sent directly to a subsequent manufacturer or a purchaser for purposes other than resale. Several comments requested that the information be placed on a permanent label, although the commenters disagreed as to the amount of information to be so placed. Some chassis-cab manufacturers wanted to retain the chassis-cab label, perhaps with the addition of weight ratings, while several body assemblers wanted to have a label containing all the information specified in the regulation. Apart from the greater amount of information

required, which could make a label inconveniently large, there will often be a need for the final-stage manufacturer to retain copies of the document in his files. A detachable document would meet this much better than a label affixed to the vehicle. Despite complaints from some final-stage manufacturers that detachable documents are too easily lost, there was ample indication at the public meeting that other final-stage manufacturers do not experience such problems. It is the Administration's position that the transmittal of the required documents can be reasonably assured by secure attachment and prominent identification, and that no further regulation of the transmittal process is necessary.

The listing of ratings for the gross vehicle weight and the gross axle weight was not objected to except with respect to multipurpose passenger vehicles. It was suggested that "vehicle capacity weight" or a similar term reflecting the passenger capacity be used. After review of the suggestions, the Administration has concluded that the GVWR-GAWR usage, though perhaps not current in some parts of the industry, is nonetheless the simplest and most accurate means of informing subsequent manufacturers of the vehicle's weight characteristics.

After review of the numerous comments on the subject, the Administration has decided not to require manufacturers to provide information on gross combination weight ratings. The term is not in general use in the country and its application is not clear with respect to certain types of combinations. For this reason, and because there are no existing or proposed standards that refer to gross combination weight ratings, it is not now appropriate to require GCWR information.

The regulation adopts the requirement that the incomplete vehicle manufacturer must list in the document each standard, applicable to the types of vehicles into which the incomplete vehicle may be manufactured, that is in effect at the time of manufacture of the incomplete vehicle. He must provide, with respect to each of these standards, one of the three types of statements proposed in the notice, depending on the degree to which his vehicle complies with each standard. If compliance is complete, and certification of the completed vehicle requires only

that the final-stage vehicle manufacturer not alter certain portions of the vehicle, the incomplete vehicle manufacturer may so state. There is no need for parts to be listed in detail, as suggested by one commenting party. The portions of the vehicle may be referred to by part, system, dimensions, or any other method sufficient to objectively identify them.

At the other extreme, an incomplete vehicle manufacturer may state that the design of the incomplete vehicle does not substantially determine the completed vehicle's conformity with a standard. This would be the case, for example, with respect to Standard No. 205, Glazing Materials, if the incomplete vehicle is a stripped chassis. Some comments stated that it appeared unnecessary to recite such standards if the incomplete vehicle manufacturer has nothing to do with them. It is the Administration's position, however, that such a recitation serves as useful notice to final-stage vehicle manufacturers, many of whom may be less familiar with the standards than the incomplete vehicle manufacturers.

Between these two extremes are the situations in which the work of the incomplete vehicle manufacturer partially determines the conformity of the final vehicle, but in which the input of subsequent manufacturers will necessarily affect such conformity. It may be that the main system components are furnished and installed by the incomplete vehicle manufacturer, as in the case of the recently adopted standard on air brake systems, but that the final-stage vehicle manufacturer must necessarily perform operations that affect the performance of the components, such as placing a body on the chassis, thereby affecting the vehicle's weight distribution and center of gravity. In some cases, as under the lighting standard, the incomplete vehicle manufacturer will supply some components that will be installed by the final-stage manufacturer, with or without additional components. In either case, the ultimate conformity of the vehicle is determined by more than one manufacturer, and the regulation deals with this problem by requiring the incomplete vehicle manufacturer to set forth specific conditions under which the completed vehicle will conform to the standard. It is not intended that the incomplete vehicle manufacturer should indicate

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The definitions by which the regulation establishes the categories of "incomplete vehicle," "completed vehicle," and the three categories of vehicle manufacturers provide a framework within which each may categorize himself and his products. Of necessity, the definitions are

broad and may not clearly define individual situations. The primary distinction between the incomplete vehicle and the completed vehicle is whether the vehicle can perform its intended function without further manufacturing operations other than the addition of readily attachable components or minor finishing operations. The comments indicated there may sometimes be a close question as to whether or not a missing component is "readily attachable." How the question is answered may determine the vehicle's status as a "completed vehicle," or an "incomplete vehicle" and the corresponding status of the manufacturers involved. It has not been found feasible or desirable at this time to regulate the numerous variations in relationships that may develop. In the usual case, it will be possible for the affected manufacturers to reach agreement between themselves as to their respective obligations.

The largest number of comments were directed at the section (§ 568.4) establishing requirements for incomplete vehicle manufacturers. That section provides, first, that an incomplete vehicle manufacturer must furnish a document with the vehicle to contain the information specified by the section. The document may be attached to the vehicle in such a manner that it will not be inadvertently detached, or it may be sent directly to a subsequent manufacturer or a purchaser for purposes other than resale. Several comments requested that the information be placed on a permanent label, although the commenters disagreed as to the amount of information to be so placed. Some chassis-cab manufacturers wanted to retain the chassis-cab label, perhaps with the addition of weight ratings, while several body assemblers wanted to have a label containing all the information specified in the regulation. Apart from the greater amount of information

required, which could make a label inconveniently large, there will often be a need for the final-stage manufacturer to retain copies of the document in his files. A detachable document would meet this much better than a label affixed to the vehicle. Despite complaints from some final-stage manufacturers that detachable documents are too easily lost, there was ample indication at the public meeting that other final-stage manufacturers do not experience such problems. It is the Administration's position that the transmittal of the required documents can be reasonably assured by secure attachment and prominent identification, and that no further regulation of the transmittal process is necessary.

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After review of the numerous comments on the subject, the Administration has decided not to require manufacturers to provide information on gross combination weight ratings. The term is not in general use in the country and its application is not clear with respect to certain types of combinations. For this reason, and because there are no existing or proposed standards that refer to gross combination weight ratings, it is not now appropriate to require GCWR information.

The regulation adopts the requirement that the incomplete vehicle manufacturer must list in the document each standard, applicable to the types of vehicles into which the incomplete vehicle may be manufactured, that is in effect at the time of manufacture of the incomplete vehicle. He must provide, with respect to each of these standards, one of the three types of statements proposed in the notice, depending on the degree to which his vehicle complies with each standard. If compliance is complete, and certification of the completed vehicle requires only

that the final-stage vehicle manufacturer not alter certain portions of the vehicle, the incomplete vehicle manufacturer may so state. There is no need for parts to be listed in detail, as suggested by one commenting party. The portions of the vehicle may be referred to by part, system, dimensions, or any other method sufficient to objectively identify them.

At the other extreme, an incomplete vehicle manufacturer may state that the design of the incomplete vehicle does not substantially determine the completed vehicle's conformity with a standard. This would be the case, for example, with respect to Standard No. 205, Glazing Materials, if the incomplete vehicle is a stripped chassis. Some comments stated that it appeared unnecessary to recite such standards if the incomplete vehicle manufacturer has nothing to do with them. It is the Administration's position, however, that such a recitation serves as useful notice to final-stage vehicle manufacturers, many of whom may be less familiar with the standards than the incomplete vehicle manufacturers.

Between these two extremes are the situations in which the work of the incomplete vehicle manufacturer partially determines the conformity of the final vehicle, but in which the input of subsequent manufacturers will necessarily affect such conformity. It may be that the main system components are furnished and installed by the incomplete vehicle manufacturer, as in the case of the recently adopted standard on air brake systems, but that the final-stage vehicle manufacturer must necessarily perform operations that affect the performance of the components, such as placing a body on the chassis, thereby affecting the vehicle's weight distribution and center of gravity. In some cases, as under the lighting standard, the incomplete vehicle manufacturer will supply some components that will be installed by the final-stage manufacturer, with or without additional components. In either case, the ultimate conformity of the vehicle is determined by more than one manufacturer, and the regulation deals with this problem by requiring the incomplete vehicle manufacturer to set forth specific conditions under which the completed vehicle will conform to the standard. It is not intended that the incomplete vehicle manufacturer should indicate

all possible conditions under which a vehicle will or will not conform. He must, however, specify at least one set of conditions under which the completed vehicle will conform. A final-stage manufacturer who wishes to act outside these conditions will be on notice that he should consult further with the incomplete vehicle manufacturer, or accept responsibility for conformity with the standard in question. Since the information that the incomplete vehicle manufacturer is required to gather will be developed in the course of his engineering development program, the requirement that this information be supplied to subsequent manufacturers does not appear unduly burdensome, and the requirement is adopted as proposed.

The obligations of the final-stage manufacturer have also been adopted without change from the notice of March 17. The major objection expressed in the comments was that the final-stage manufacturer was often a small company whose input was small relative to that of the incomplete vehicle manufacturer and that he should not bear the burden of certifying that the vehicle fully conforms to the standards. This objection confuses certification with liability. Although the certifying manufacturer may be approached first in the event of his vehicle's nonconformity, if the nonconforming aspect of the vehicle is a component or system supplied by the incomplete vehicle manufacturer, the final-stage manufacturer may establish that he exercised due care by showing that he observed the conditions stated by the incomplete vehicle manufacturer. To the extent that the final vehicle's conformity is determined by work done by the incomplete vehicle manufacturer, the final manufacturer's burden is thus reduced.

Several comments stated that considerable time may elapse between the date of manufacture of the incomplete vehicle and the date of completion of the final-stage vehicle. The regulation deals with this situation by permitting the final-stage manufacturer to select either date or any date in between as the certification date. Although this aspect of the regulation appears to be generally understood, the question arose at the September 18 meeting as to whether a manufacturer may certify compliance with standards

as they are effective at different dates between initial and final manufacture. This question has been answered in the negative. The regulation requires manufacturers to conform to all the standards in effect on a particular date, between the two limits. The NHTSA may repeal certain requirements while instituting others, and those in effect at a particular time must be viewed, and conformed to, as a system. A manufacturer who wishes to comply with a standard before its effective date may do so, of course, even though he is not required to certify. Where amendments to an existing standard are such that a vehicle complying with the amended standard will not comply with the earlier version, the Administration will ordinarily provide in the standard that a manufacturer may elect to comply with the amendment before its effective date, if such a course is considered acceptable.

A further question raised in the comments concerns the status of a manufacturer who does not have title to the vehicle on which he performs manufacturing operations. The Administration's response, as stated at the September 18 meeting, is that if a manufacturer produces a completed vehicle from the incomplete stage, he is a final-stage manufacturer, regardless of title. Basing responsibility for conformity on title would present too many opportunities for evasion, and the actual assembler is the party most likely to have the technical knowledge necessary for effective exercise of responsibility.

Another question concerns the magnitude of the manufacturing operation that makes the vehicle a completed vehicle and its manufacturer a final-stage manufacturer. By its definition a completed vehicle is one that requires no further manufacturing operations in order to perform its intended function, other than the attachment of readily attachable components and minor finishing operations. If a manufacturer installs a component that is not readily attachable, such as a fifth wheel, then he is a final-stage manufacturer even though his contribution to the overall vehicle may appear small. In any case, however, an incomplete vehicle or intermediate manufacturer may assume legal responsibility for the

Effective: January 1, 1972

vehicle and affix the appropriate label under 567.5(b) or 567.5(c) of the certification regulations.

In the event that a "readily attachable component" is a component regulated by the standards, such as a mirror or a tire, the final-stage manufacturer must assume responsibility and certify the vehicle even though he does not install the particular component. Otherwise, the installers of mirrors and tires would be considered final-stage manufacturers, a status that they would probably find unacceptable and that would tend to make certification less meaningful.

In consideration of the above, Title 49, Code of Federal Regulations, is amended as follows:

A new part 568, *Vehicles Manufactured in Two or More Stages*, is added, reading as set forth below.

Section 571.3 is amended by deleting the definition of "chassis cab."

Sections 571.5(b) and 571.13, and the Ruling Regarding Chassis-cabs appearing at 33 F.R. 29 (January 3, 1968), are revoked.

Issued on April 8, 1971.

Douglas W. Toms
Acting Administrator

36 F.R. 7054
April 14, 1971

all possible conditions under which a vehicle will or will not conform. He must, however, specify at least one set of conditions under which the completed vehicle will conform. A final-stage manufacturer who wishes to act outside these conditions will be on notice that he should consult further with the incomplete vehicle manufacturer, or accept responsibility for conformity with the standard in question. Since the information that the incomplete vehicle manufacturer is required to gather will be developed in the course of his engineering development program, the requirement that this information be supplied to subsequent manufacturers does not appear unduly burdensome, and the requirement is adopted as proposed.

The obligations of the final-stage manufacturer have also been adopted without change from the notice of March 17. The major objection expressed in the comments was that the final-stage manufacturer was often a small company whose input was small relative to that of the incomplete vehicle manufacturer and that he should not bear the burden of certifying that the vehicle fully conforms to the standards. This objection confuses certification with liability. Although the certifying manufacturer may be approached first in the event of his vehicle's nonconformity, if the nonconforming aspect of the vehicle is a component or system supplied by the incomplete vehicle manufacturer, the final-stage manufacturer may establish that he exercised due care by showing that he observed the conditions stated by the incomplete vehicle manufacturer. To the extent that the final vehicle's conformity is determined by work done by the incomplete vehicle manufacturer, the final manufacturer's burden is thus reduced.

Several comments stated that considerable time may elapse between the date of manufacture of the incomplete vehicle and the date of completion of the final-stage vehicle. The regulation deals with this situation by permitting the final-stage manufacturer to select either date or any date in between as the certification date. Although this aspect of the regulation appears to be generally understood, the question arose at the September 18 meeting as to whether a manufacturer may certify compliance with standards

as they are effective at different dates between initial and final manufacture. This question has been answered in the negative. The regulation requires manufacturers to conform to all the standards in effect on a particular date, between the two limits. The NHTSA may repeal certain requirements while instituting others, and those in effect at a particular time must be viewed, and conformed to, as a system. A manufacturer who wishes to comply with a standard before its effective date may do so, of course, even though he is not required to certify. Where amendments to an existing standard are such that a vehicle complying with the amended standard will not comply with the earlier version, the Administration will ordinarily provide in the standard that a manufacturer may elect to comply with the amendment before its effective date, if such a course is considered acceptable.

A further question raised in the comments concerns the status of a manufacturer who does not have title to the vehicle on which he performs manufacturing operations. The Administration's response, as stated at the September 18 meeting, is that if a manufacturer produces a completed vehicle from the incomplete stage, he is a final-stage manufacturer, regardless of title. Basing responsibility for conformity on title would present too many opportunities for evasion, and the actual assembler is the party most likely to have the technical knowledge necessary for effective exercise of responsibility.

Another question concerns the magnitude of the manufacturing operation that makes the vehicle a completed vehicle and its manufacturer a final-stage manufacturer. By its definition a completed vehicle is one that requires no further manufacturing operations in order to perform its intended function, other than the attachment of readily attachable components and minor finishing operations. If a manufacturer installs a component that is not readily attachable, such as a fifth wheel, then he is a final-stage manufacturer even though his contribution to the overall vehicle may appear small. In any case, however, an incomplete vehicle or intermediate manufacturer may assume legal responsibility for the

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vehicle and affix the appropriate label under 567.5(b) or 567.5(c) of the certification regulations.

In the event that a "readily attachable component" is a component regulated by the standards, such as a mirror or a tire, the final-stage manufacturer must assume responsibility and certify the vehicle even though he does not install the particular component. Otherwise, the installers of mirrors and tires would be considered final-stage manufacturers, a status that they would probably find unacceptable and that would tend to make certification less meaningful.

In consideration of the above, Title 49, Code of Federal Regulations, is amended as follows:

A new part 568, *Vehicles Manufactured in Two or More Stages*, is added, reading as set forth below.

Section 571.3 is amended by deleting the definition of "chassis cab."

Sections 571.5(b) and 571.13, and the Ruling Regarding Chassis-cabs appearing at 33 F.R. 29 (January 3, 1968), are revoked.

Issued on April 8, 1971.

Douglas W. Toms
Acting Administrator

36 F.R. 7054
April 14, 1971

PREAMBLE TO AMENDMENT TO PART 568—VEHICLES MANUFACTURED IN TWO OR MORE STAGES

This notice extends the applicability of the definitions used in the Federal Motor Vehicle Safety Standards to other regulations contained in Chapter V of Title 49, Code of Federal Regulations, and deletes the definitions of "Gross axle weight rating" and "Gross vehicle weight rating" from the regulations governing vehicles manufactured in two or more stages.

49 CFR 571.3(b) contains the definitions used in the Federal Motor Vehicle Safety Standards. Some of the regulations other than standards contain their own definition sections defining terms unique to the regulation, and otherwise incorporating by reference the definitions of Part 571. An example of this is the definition section in the Certification Regulation, 49 CFR 567.3: "All terms that are defined in the Act and the rules and standards issued under its authority are used as defined therein." However, there is no reverse applicability of 49 CFR 571.3(b), which applies only to terms "as used in this part." One result has been that duplicate definitions appear in certain regulations, specifically, the identical definitions of "Gross axle weight rating" and "Gross vehicle weight rating" found in both Part 571 and the regulation on Vehicles Manufactured in Two or More Stages, Part 568. To prevent unnecessary duplication and the possibility of confusion in the future, the Admin-

istration has determined that the definitions used in Part 571 should apply to all regulations in Chapter V, and also that Part 568 should be amended by deleting the definitions of "Gross axle weight rating" and "Gross vehicle weight rating." In consideration of the foregoing 49 CFR 568.3 is amended . . .

Effective date: June 1, 1972. Since this amendment is administrative and interpretive in nature and imposes no additional burden upon any person, notice and public procedure thereon is unnecessary and it may be made effective in less than 30 days after publication in the *Federal Register*.

This notice is issued under the authority of section 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407), and the delegation of authority from the Secretary of Transportation to the National Highway Traffic Safety Administration 49 CFR 1.51.

Issued on May 9, 1972.

Douglas W. Toms
Administrator

37 F.R. 10938
June 1, 1972

PREAMBLE TO AMENDMENT TO PART 568—VEHICLES MANUFACTURED IN TWO OR MORE STAGES

This notice extends the applicability of the definitions used in the Federal Motor Vehicle Safety Standards to other regulations contained in Chapter V of Title 49, Code of Federal Regulations, and deletes the definitions of "Gross axle weight rating" and "Gross vehicle weight rating" from the regulations governing vehicles manufactured in two or more stages.

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istration has determined that the definitions used in Part 571 should apply to all regulations in Chapter V, and also that Part 568 should be amended by deleting the definitions of "Gross axle weight rating" and "Gross vehicle weight rating." In consideration of the foregoing 49 CFR 568.3 is amended . . .

Effective date: June 1, 1972. Since this amendment is administrative and interpretive in nature and imposes no additional burden upon any person, notice and public procedure thereon is unnecessary and it may be made effective in less than 30 days after publication in the *Federal Register*.

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Issued on May 9, 1972.

Douglas W. Toms
Administrator

37 F.R. 10938
June 1, 1972

**PREAMBLE TO AMENDMENT TO PART 568—
VEHICLES MANUFACTURED IN TWO OR MORE STAGES**

(Docket No. 72-27; Notice 2)

This notice establishes certification and labeling responsibilities for persons who alter "completed vehicles" after their certification as conforming to applicable motor vehicle safety standards. The requirements are based on those proposed in a notice of proposed rulemaking published October 25, 1972 (37 F.R. 22800).

Under the new requirements, a person who alters a completed vehicle, other than by the attachment, substitution, or removal of "readily attachable components", will be required to ascertain conformity to all applicable standards as of any date between the manufacture date of the completed vehicle and the manufacture date of the altered vehicle. That person will be required to affix a label (leaving the certification label in place) that identifies the alterer, the date of alteration, the date as of which conformity is determined, and any changes the alteration produces in either gross weight ratings or vehicle classification. A person who does not alter the vehicle, or who adds, substitutes, or removes only readily attachable components will be required to leave the certification label in place, but will not be required, unless the alteration invalidates the stated weight ratings, to provide an additional label. Distributors who do not alter the vehicle, or who alter it using only readily attachable components and do not invalidate the stated weight ratings will meet the certification requirements by leaving the certification label in place. The requirements will place persons who alter completed vehicles on the same basis as final-stage manufacturers, by allowing the former to choose as the date by which vehicle conformity is determined any date between the date on which the completed vehicle is manufactured and the date on which the vehicle is altered. Under

previously existing statutory and regulatory provisions, alterers of vehicles were required to use only the date of completion of the altered vehicle as the date by which conformity could be determined.

General Motors, Truck Body and Equipment Association, and Stutz Motor Car of America supported the proposal without qualification. Other comments generally approved the proposal with some suggested changes.

Several comments argued that the limiting concept of "readily attachable components", the addition, removal, or substitution of which does not create a requirement to affix a label, should not include "mirrors or tire and rim assemblies", as the language appears in §§ 567.6 and .7, and § 568.8. It was argued that these items directly affect the vehicle's conformity to the standards or the weight ratings, and should therefore not be alterable without, in effect, a recertification by the alterer. It was variously suggested that explicit inclusion of these items as examples of readily attachable components might cause a safety problem, a false certification, or a misleading of persons such as dealers as to their responsibilities under the Act and the standards.

The NHTSA does not accept these arguments. The provisions for alteration of vehicles, like the larger certification scheme of which they are a part, are intended to reflect the realities of manufacture and distribution. It is a fact that the substitution of tires by a dealer takes place in a substantial fraction of all vehicle sales. Moreover, a large proportion of the components that are in fact frequently altered at the dealer level are directly affected by standards: mirrors, tires, rims, lighting accessories, bumper guards and attachments, windshield wipers and washers, hub

caps and wheel nuts, seat belts, and interior components such as air conditioners or radios that come within the head impact area, to name a few. If these items were not included in the concept of readily attachable components, for which an alteration label is not required, it is safe to say that virtually every dealer in the country would be affixing labels to many of the vehicles he sold.

It was not the intent of this agency to create such a manifold expansion of labeling requirements. The altered-vehicle label is designed primarily to reach those cases where a completed vehicle is significantly altered, in a manner, and with components, not provided by the original manufacturer. The substitution or addition of parts such as tires, rims, and mirrors is a routine aspect of typical vehicle distribution systems, and the cost burden of affixing a permanent label to the vehicle has not been found to be justified in that situation. For these reasons the language of the regulation has in these respects been retained as proposed.

The requirement to keep a vehicle in conformity to the standards and the weight ratings applies throughout the chain of distribution regardless of any labeling requirements, and this agency has no intent of downgrading the importance of that requirement. The comments did reveal a justifiable concern of manufacturers for situations where the vehicle might be altered, as by substitution of tires, in a way that its stated weight ratings are no longer valid. Also, there may well be cases where a customer wants a vehicle to have lighter components for its intended purpose, and would accept lowered weight ratings. To deal with these cases, language has been added to sections 567.6 and .7, and 568.8, to require the affixing of an alteration label whenever any type of alteration is made that would invalidate the stated weight ratings.

American Motors and Jeep argued that requiring alterers to certify conformity discriminates against manufacturers' dealers. They pointed out that dealers, who generally alter vehicles before sale, are required to maintain conformity, while aftermarket installers of equipment, because the additions they make are to "used" vehicles, need not. They suggested that

"special add-on accessories" be excepted from the requirements, that a new category of "Special Motorized Equipment" be created to which some of the standards would not apply, that equipment standards be issued to cover aftermarket installers, and that highway safety program standards prohibit the alteration of vehicles such that they would not conform to the standards. These comments are not, in the view of this agency, within the scope of the rulemaking. Requests of this nature should be submitted as petitions for rulemaking, with supporting data, in accordance with the procedures of 49 CFR Part 553.

British Leyland suggested that an exemption to the labeling requirements be made for persons installing accessories which the original vehicle manufacturer makes available, and whose installation he knows will not affect vehicle conformity. The NHTSA expects that most accessories meeting this description will be readily attachable within the sense of the regulation, and no further labeling in these cases will be required. It should be noted that the category of "readily attachable components" cannot be sharply defined, and in any marginal case the NHTSA will accept the reasonable judgment of the parties concerned, especially where the original manufacturer and the alterer are in agreement. In cases where components of this type are not found to be readily attachable, the burden on the alterer to determine that the alteration does not destroy conformity is minimized, leaving him with essentially no more than the attachment of the alterer label.

Certain comments pointed out that while proposed sections 567.7 and 568.8 are not limited in their application to distributors, that limitation had been retained in section 567.6. The comments suggested that, as sections 567.7 and 568.8 applied to dealers, section 567.6 should likewise so apply. The substance of the suggestion has been adopted in the final rule, by modifying § 567.6 to apply to any "person".

The Recreation Vehicle Institute (RVI) suggested that manufacturers of completed vehicles be required to supply a document when requested by a vehicle alterer, similar to that provided final-stage manufacturers, that advises alterers how to achieve or retain conformity. This sug-

**PREAMBLE TO AMENDMENT TO PART 568—
VEHICLES MANUFACTURED IN TWO OR MORE STAGES**

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gestion has not been adopted. If a vehicle manufacturer wishes to provide information on the alteration of his vehicles, he of course may do so. Once a completed, certified vehicle has been produced, however, the NHTSA does not believe it reasonable to require manufacturers to provide persons who might alter that vehicle with additional certification information. The requirement to provide information concerning incomplete vehicles (Part 568) is founded on the fact that an incomplete vehicle manufacturer has marketed his vehicles with the express intent of having them completed by other persons. This is not the case with completed vehicles.

RVI also suggested that the regulation specifically provide that alterers be allowed to base their conclusions as to conformity on the original certification. The NHTSA does not consider such a provision to be meaningful. The extent to which the alterer's conformity assurance may be based on the original certification depends entirely on what the alterer does to the vehicle, which is a fact peculiarly within his knowledge.

Certain comments suggested that compliance with the requirements be permitted before the

specified effective date. The NHTSA believes this request to be meritorious. Alterers will be able to conform to existing requirements or to those issued by this notice at any time up to the effective date.

In light of the above, amendments are made to 49 CFR Parts 567 and 568

Effective date: February 1, 1974. However, persons who alter vehicles may at any time before that date conform to the provisions issued in this in lieu of existing provisions of 49 CFR Parts 567 and 568.

Sections 103, 112, 114, 119, Pub. L. 89-563, 80 Stat. 718; 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 38 F.R. 12147.

Issued on June 13, 1973.

James E. Wilson
Associate Administrator
Traffic Safety Programs

38 F.R. 15961
June 19, 1973

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Issued on June 13, 1973.

James E. Wilson
Associate Administrator
Traffic Safety Programs

38 F.R. 15961
June 19, 1973

PREAMBLE TO AN AMENDMENT TO PART 568—VEHICLES MANUFACTURED IN TWO OR MORE STAGES

(Docket No. 80-04; Notice 1)

ACTION: Interpretive amendment, final rule.

SUMMARY: This notice amends the certification regulations to modify the certification statement required to be made on alterers' labels. This notice responds to a petition by the National Truck Equipment Association to change the certification statement to show that alterers are only responsible for the compliance of their vehicles with standards that are affected by their alteration. The agency has frequently issued interpretations taking that position and accordingly modifies the certification statement to reflect this interpretation. Since this amendment merely incorporates an existing interpretation, it is being made without notice and opportunity for comment.

EFFECTIVE DATE: Since this amendment incorporates an existing interpretation, it is effective immediately upon publication, March 24, 1980. However, since manufacturers and alterers need time to modify their labels in accordance with this change and may have supplies of labels with the old language, the NHTSA will permit the use of either the new or the existing label language.

FOR FURTHER INFORMATION CONTACT:

Mr. David Fay, Engineering Systems Staff,
National Highway Traffic Safety
Administration, 400 Seventh Street, S.W.,
Washington, D.C. 20590 (202-426-2817).

SUPPLEMENTARY INFORMATION:

In response to the decision in *Rex Chainbelt v. Brinegar*, 511 F.2d 1215 (7th Cir. 1975), the agency issued several amendments to its certification regulations bringing them into compliance with the court's mandate. The court ordered the agency to establish a certification scheme that would require each manufacturer of a vehicle to be responsible for the standards affected by its manufacturing process. During the amendment of the certification regulation, the agency did not change the label used by vehicle alterers. Vehicle alterers are those businesses or individuals that alter previously certified

vehicles prior to their first sale. The agency concluded that the simplicity of the alterers' label should be retained, and that, as it was then worded, the alterers' label was sufficient to indicate that alterers were only responsible for the compliance of standards that might have been affected by their alteration.

The National Truck Equipment Association (NTEA) first petitioned the agency in December 1978 to amend the alterers' label stating that the language in fact made the alterer responsible for the entire compliance of the vehicle with all standards even though the alterer may not have affected any of those standards by its alteration. To accomplish its goal, the NTEA proposed a complicated alterers' label that would have listed the standards affected by the alteration as well as listing those standards for which the alterer claimed no responsibility. The label would have looked much like the current incomplete- or intermediate-manufacturer's labels.

The agency objected to this proposal, because it would have overly complicated the alterers' label. Alterers frequently are small businesses and the alterations they perform are often minor. Many of these small businesses are aware of their responsibilities and know that their alterations do not affect the compliance of a vehicle with safety standards. However, many of these businesses are not familiar with all of the agency's safety standards. Accordingly, it would have burdened them extensively to have familiarized themselves to the point where they could list all of the standards on their labels indicating which, if any, were affected by their alterations. In light of this problem, the agency denied the NTEA's petition while indicating that the agency would be responsive to the suggestion of an amendment that would achieve their goals without adding complexity to the alterers' label.

On August 16, 1979, the NTEA again petitioned the agency to amend the label. This time, however, the NTEA asked the agency simply to add several words to the alterers' label to indicate that the alterer is responsible only for the standards "affected by the alteration." The NTEA argued that this would accomplish their goal of ensuring that an alterer would not be held responsible for compliance of vehicles with safety standards that are not affected by an alterer's modifications. This notice grants their petition.

The agency has indicated by letter in the past that it considers each manufacturer or alterer only to be responsible for the compliance of the standards that it affects by its manufacture or alteration. Thus, the agency would not hold an alterer responsible for the compliance of the entire vehicle when in actuality the final-stage manufacturer or some other manufacturer in the manufacturing chain might have been responsible for a noncompliance with a standard. The agency can understand, however, how some people might read the existing language of the label more broadly than intended. To avoid any such misunderstandings, the agency is amending Part 567, *Certification*, and Part 568, *Vehicles Manufactured in Two or More Stages*, to incorporate the agency's interpretation of an alterer's responsibilities for compliance with safety standards.

In consideration of the foregoing, Title 49 of the Code of Federal Regulations is amended as follows:

1. Part 567, *Certification*, is amended by changing the first sentence of § 567.7(a) to read:

(a) The statement: "This vehicle was altered by (individual or corporate name) in (month and year in which alterations were completed) and as altered it conforms to all applicable Federal Motor Vehicle Safety Standards affected by the alteration and in effect in (month, year)."

2. Part 568, *Vehicles Manufactured in Two or More Stages*, is amended by revising section 568.8 as follows:

§ 568.8 Requirements for persons who alter certified vehicles.

A person who alters a vehicle that has been previously certified in accordance with § 567.4 or § 567.5, other than by the addition, substitution, or removal of readily attachable components such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, or who alters a vehicle in such a manner that its stated weight ratings are no longer valid, before the first purchase of the vehicle in good faith for purposes

other than resale, shall ascertain that the vehicle as altered conforms to the standards which are affected by the alteration and are in effect on the original date of manufacture of the vehicle, the date of final completion, or a date between those two dates. That person shall certify the vehicle in accordance with § 567.7 of this chapter.

Since this modification of the alterers' label merely incorporates an existing interpretation of the certification regulations, the Administrative Procedure Act (5 U.S.C. 553) permits the NHTSA to make the amendment without notice and opportunity to comment. Further, the change is being made effective immediately since it does not change the certification responsibilities of any manufacturer or alterer.

The agency realizes that alterers preprint their labels, and accordingly, any change in the language on the alterers' label requires some leadtime for manufacturers to obtain new complying labels. Accordingly, the agency will permit the use of either the old or new language on the alterers' label until existing supplies of labels are depleted. This will allow those alterers who wish to change their labels immediately the opportunity to do so while providing for an orderly transition for those alterers that wish to use their existing supply of labels. The agency has reviewed this amendment in accordance with E.O. 12044 and implementing departmental guidelines and concludes that it is not significant within the meaning of the Order. The agency has concluded further that preparation of a regulatory evaluation is not warranted. This amendment permits alterers to exhaust their current label supply and to obtain modified labels with their next order. Further, the new labels will be no more costly than the current ones. Accordingly, there should be minimal costs associated with the implementation of this amendment.

The principal authors of this notice are David Fay of the Engineering Systems Staff and Roger Tilton of the Office of Chief Counsel.

Issued on March 17, 1980.

Joan Claybrook
Administrator

45 F.R. 18928
March 24, 1980

PREAMBLE TO AN AMENDMENT TO PART 568—VEHICLES MANUFACTURED IN TWO OR MORE STAGES

(Docket No. 80-04; Notice 1)

ACTION: Interpretive amendment, final rule.

SUMMARY: This notice amends the certification regulations to modify the certification statement required to be made on alterers' labels. This notice responds to a petition by the National Truck Equipment Association to change the certification statement to show that alterers are only responsible for the compliance of their vehicles with standards that are affected by their alteration. The agency has frequently issued interpretations taking that position and accordingly modifies the certification statement to reflect this interpretation. Since this amendment merely incorporates an existing interpretation, it is being made without notice and opportunity for comment.

EFFECTIVE DATE: Since this amendment incorporates an existing interpretation, it is effective immediately upon publication, March 24, 1980. However, since manufacturers and alterers need time to modify their labels in accordance with this change and may have supplies of labels with the old language, the NHTSA will permit the use of either the new or the existing label language.

FOR FURTHER INFORMATION CONTACT:

Mr. David Fay, Engineering Systems Staff,
National Highway Traffic Safety
Administration, 400 Seventh Street, S.W.,
Washington, D.C. 20590 (202-426-2817).

SUPPLEMENTARY INFORMATION:

In response to the decision in *Rex Chainbelt v. Brinegar*, 511 F.2d 1215 (7th Cir. 1975), the agency issued several amendments to its certification regulations bringing them into compliance with the court's mandate. The court ordered the agency to establish a certification scheme that would require each manufacturer of a vehicle to be responsible for the standards affected by its manufacturing process. During the amendment of the certification regulation, the agency did not change the label used by vehicle alterers. Vehicle alterers are those businesses or individuals that alter previously certified

vehicles prior to their first sale. The agency concluded that the simplicity of the alterers' label should be retained, and that, as it was then worded, the alterers' label was sufficient to indicate that alterers were only responsible for the compliance of standards that might have been affected by their alteration.

The National Truck Equipment Association (NTEA) first petitioned the agency in December 1978 to amend the alterers' label stating that the language in fact made the alterer responsible for the entire compliance of the vehicle with all standards even though the alterer may not have affected any of those standards by its alteration. To accomplish its goal, the NTEA proposed a complicated alterers' label that would have listed the standards affected by the alteration as well as listing those standards for which the alterer claimed no responsibility. The label would have looked much like the current incomplete- or intermediate-manufacturer's labels.

The agency objected to this proposal, because it would have overly complicated the alterers' label. Alterers frequently are small businesses and the alterations they perform are often minor. Many of these small businesses are aware of their responsibilities and know that their alterations do not affect the compliance of a vehicle with safety standards. However, many of these businesses are not familiar with all of the agency's safety standards. Accordingly, it would have burdened them extensively to have familiarized themselves to the point where they could list all of the standards on their labels indicating which, if any, were affected by their alterations. In light of this problem, the agency denied the NTEA's petition while indicating that the agency would be responsive to the suggestion of an amendment that would achieve their goals without adding complexity to the alterers' label.

On August 16, 1979, the NTEA again petitioned the agency to amend the label. This time, however, the NTEA asked the agency simply to add several words to the alterers' label to indicate that the alterer is responsible only for the standards "affected by the alteration." The NTEA argued that this would accomplish their goal of ensuring that an alterer would not be held responsible for compliance of vehicles with safety standards that are not affected by an alterer's modifications. This notice grants their petition.

The agency has indicated by letter in the past that it considers each manufacturer or alterer only to be responsible for the compliance of the standards that it affects by its manufacture or alteration. Thus, the agency would not hold an alterer responsible for the compliance of the entire vehicle when in actuality the final-stage manufacturer or some other manufacturer in the manufacturing chain might have been responsible for a noncompliance with a standard. The agency can understand, however, how some people might read the existing language of the label more broadly than intended. To avoid any such misunderstandings, the agency is amending Part 567, *Certification*, and Part 568, *Vehicles Manufactured in Two or More Stages*, to incorporate the agency's interpretation of an alterer's responsibilities for compliance with safety standards.

In consideration of the foregoing, Title 49 of the Code of Federal Regulations is amended as follows:

1. Part 567, *Certification*, is amended by changing the first sentence of § 567.7(a) to read:

(a) The statement: "This vehicle was altered by (individual or corporate name) in (month and year in which alterations were completed) and as altered it conforms to all applicable Federal Motor Vehicle Safety Standards affected by the alteration and in effect in (month, year)."

2. Part 568, *Vehicles Manufactured in Two or More Stages*, is amended by revising section 568.8 as follows:

§ 568.8 Requirements for persons who alter certified vehicles.

A person who alters a vehicle that has been previously certified in accordance with § 567.4 or § 567.5, other than by the addition, substitution, or removal of readily attachable components such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, or who alters a vehicle in such a manner that its stated weight ratings are no longer valid, before the first purchase of the vehicle in good faith for purposes

other than resale, shall ascertain that the vehicle as altered conforms to the standards which are affected by the alteration and are in effect on the original date of manufacture of the vehicle, the date of final completion, or a date between those two dates. That person shall certify the vehicle in accordance with § 567.7 of this chapter.

* * * * *

Since this modification of the alterers' label merely incorporates an existing interpretation of the certification regulations, the Administrative Procedure Act (5 U.S.C. 553) permits the NHTSA to make the amendment without notice and opportunity to comment. Further, the change is being made effective immediately since it does not change the certification responsibilities of any manufacturer or alterer.

The agency realizes that alterers preprint their labels, and accordingly, any change in the language on the alterers' label requires some leadtime for manufacturers to obtain new complying labels. Accordingly, the agency will permit the use of either the old or new language on the alterers' label until existing supplies of labels are depleted. This will allow those alterers who wish to change their labels immediately the opportunity to do so while providing for an orderly transition for those alterers that wish to use their existing supply of labels. The agency has reviewed this amendment in accordance with E.O. 12044 and implementing departmental guidelines and concludes that it is not significant within the meaning of the Order. The agency has concluded further that preparation of a regulatory evaluation is not warranted. This amendment permits alterers to exhaust their current label supply and to obtain modified labels with their next order. Further, the new labels will be no more costly than the current ones. Accordingly, there should be minimal costs associated with the implementation of this amendment.

The principal authors of this notice are David Fay of the Engineering Systems Staff and Roger Tilton of the Office of Chief Counsel.

Issued on March 17, 1980.

Joan Claybrook
Administrator

45 F.R. 18928
March 24, 1980

PART 568—VEHICLES MANUFACTURED IN TWO OR MORE STAGES

(Dockets No. 70-6, 70-8, and 70-15)

§ 568.1 Purpose and scope.

The purpose of this part is to prescribe the method by which manufacturers of vehicles manufactured in two or more stages shall ensure conformity of those vehicles with the Federal motor vehicle safety standards ("standards") and other regulations issued under the National Traffic and Motor Vehicle Safety Act.

§ 568.2 Application.

This part applies to incomplete vehicle manufacturers, intermediate manufacturers, and final-stage manufacturers of vehicles manufactured in two or more stages.

§ 568.3 Definitions.

"Completed vehicle" means a vehicle that requires no further manufacturing operations to perform its intended function, other than the addition of readily attachable components, such as mirrors or tire and rim assemblies, or minor finishing operations such as painting.

"Final-stage manufacturer" means a person who performs such manufacturing operations on an incomplete vehicle that it becomes a completed vehicle.

"Incomplete vehicle" means an assemblage consisting, as a minimum, of frame and chassis structure, power train, steering system, suspension system, and braking system, to the extent that those systems are to be part of the completed vehicle, that requires further manufacturing operations, other than the addition of readily attachable components, such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, to become a completed vehicle.

"Intermediate manufacturer" means a person, other than the incomplete vehicle manufacturer or the final-stage manufacturer, who performs manufacturing operations on an incomplete vehicle.

"Incomplete vehicle manufacturer" means a person who manufactures an incomplete vehicle by assembling components none of which, taken separately, constitute an incomplete vehicle.

§ 568.4 Requirements for incomplete vehicle manufacturers.

(a) The incomplete vehicle manufacturer shall furnish with the incomplete vehicle, at or before the time of delivery, a document that contains the following statements, in the order shown, and any other information required by this chapter to be included therein.

(1) Name and mailing address of the incomplete vehicle manufacturer.

(2) Month and year during which the incomplete vehicle manufacturer performed his last manufacturing operation on the incomplete vehicle.

(3) Identification of the incomplete vehicle(s) to which the document applies. The identification may be by serial number, groups of serial numbers, or otherwise, but it must be sufficient to ascertain positively that a document applies to a particular incomplete vehicle after the document has been removed from the vehicle.

(4) Gross vehicle weight rating of the completed vehicle for which the incomplete vehicle is intended.

(5) Gross axle weight rating for each axle of the completed vehicle, listed and identified in order from front to rear.

(6) Listing of the vehicle types as defined in 49 CFR § 571.3 (e.g., truck, MPV, bus, trailer) into which the incomplete vehicle may appropriately be manufactured.

(7) Listing by number of each standard, in effect at the time of manufacture of the incomplete vehicle, that applies to any of the vehicle types listed in subparagraph (6) of this paragraph, followed in each case by one of the following three types of statement, as applicable:

(i) A statement that the vehicle when completed will conform to the standard if no alterations are made in identified components of the incomplete vehicle.

EXAMPLE:

"107—This vehicle when completed will conform to Standard 107, Reflecting Surfaces, if no alterations are made in the windshield wiper components or in the reflecting surfaces in the interior of the cab."

(ii) A statement of specific conditions of final manufacture under which the manufacturer specifies that the completed vehicle will conform to the standard.

EXAMPLE:

"121—This vehicle when completed will conform to Standard 121, Air Brake Systems, if it does not exceed any of the gross axle weight ratings, if the center of gravity at GVWR is not higher than nine feet above the ground, and if no alterations are made in any brake system component.

(iii) A statement that conformity with the standard is not substantially affected by the design of the incomplete vehicle, and that the incomplete vehicle manufacturer makes no representation as to conformity with the standard.

(b) The document shall be attached to the incomplete vehicle in such a manner that it will not be inadvertently detached, or alternatively, it may be sent directly to a final-stage manufacturer, intermediate manufacturer or purchaser for purposes other than resale to whom the incomplete vehicle is delivered.

§ 568.5 Requirements for intermediate manufacturers.

(a) Each intermediate manufacturer of an incomplete vehicle shall furnish the document required by § 568.4 in the manner specified in that section. If any of the changes in the vehicle made by the intermediate manufacturer affect the validity of the statements in the document as provided to him he shall furnish an addendum to the document that contains his name and mailing address and an indication of all changes that should be made in the document to reflect changes that he made in the vehicle.

(b) Each intermediate manufacturer shall, in accordance with § 567.5 of this chapter, affix a label to each chassis-cab respecting which he is required by paragraph (a) above to furnish an addendum to the document required by § 568.4.

§ 568.6 Requirements for final-stage manufacturers.

(a) Each final-stage manufacturer shall complete the vehicle in such a manner that it conforms to the standards in effect on the date of manufacture of the incomplete vehicle, the date of final completion, or a date between those two dates. This requirement shall, however, be superseded by any conflicting provisions of a standard that applies by its terms to vehicles manufactured in two or more stages.

(b) Each final-stage manufacturer shall certify that the entire vehicle conforms to all applicable standards, in accordance with section 567.5 of Title 49 of the Code of Federal Regulations, *Requirements for manufacturers of vehicles manufactured in two or more stages.*

§ 568.7 Requirements for manufacturers who assume legal responsibility for the vehicle.

(a) If an incomplete vehicle manufacturer assumes legal responsibility for all duties and liabilities imposed on manufacturers by the National Traffic and Motor Vehicle Safety Act (15

PART 568—VEHICLES MANUFACTURED IN TWO OR MORE STAGES

(Dockets No. 70-6, 70-8, and 70-15)

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"Final-stage manufacturer" means a person who performs such manufacturing operations on an incomplete vehicle that it becomes a completed vehicle.

"Incomplete vehicle" means an assemblage consisting, as a minimum, of frame and chassis structure, power train, steering system, suspension system, and braking system, to the extent that those systems are to be part of the completed vehicle, that requires further manufacturing operations, other than the addition of readily attachable components, such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, to become a completed vehicle.

"Intermediate manufacturer" means a person, other than the incomplete vehicle manufacturer or the final-stage manufacturer, who performs manufacturing operations on an incomplete vehicle.

"Incomplete vehicle manufacturer" means a person who manufactures an incomplete vehicle by assembling components none of which, taken separately, constitute an incomplete vehicle.

§ 568.4 Requirements for incomplete vehicle manufacturers.

(a) The incomplete vehicle manufacturer shall furnish with the incomplete vehicle, at or before the time of delivery, a document that contains the following statements, in the order shown, and any other information required by this chapter to be included therein.

(1) Name and mailing address of the incomplete vehicle manufacturer.

(2) Month and year during which the incomplete vehicle manufacturer performed his last manufacturing operation on the incomplete vehicle.

(3) Identification of the incomplete vehicle(s) to which the document applies. The identification may be by serial number, groups of serial numbers, or otherwise, but it must be sufficient to ascertain positively that a document applies to a particular incomplete vehicle after the document has been removed from the vehicle.

(4) Gross vehicle weight rating of the completed vehicle for which the incomplete vehicle is intended.

(5) Gross axle weight rating for each axle of the completed vehicle, listed and identified in order from front to rear.

(6) Listing of the vehicle types as defined in 49 CFR § 571.3 (*e.g.*, truck, MPV, bus, trailer) into which the incomplete vehicle may appropriately be manufactured.

(7) Listing by number of each standard, in effect at the time of manufacture of the incomplete vehicle, that applies to any of the vehicle types listed in subparagraph (6) of this paragraph, followed in each case by one of the following three types of statement, as applicable:

(i) A statement that the vehicle when completed will conform to the standard if no alterations are made in identified components of the incomplete vehicle.

EXAMPLE:

"107—This vehicle when completed will conform to Standard 107, Reflecting Surfaces, if no alterations are made in the windshield wiper components or in the reflecting surfaces in the interior of the cab."

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EXAMPLE:

"121—This vehicle when completed will conform to Standard 121, Air Brake Systems, if it does not exceed any of the gross axle weight ratings, if the center of gravity at GVWR is not higher than nine feet above the ground, and if no alterations are made in any brake system component.

(iii) A statement that conformity with the standard is not substantially affected by the design of the incomplete vehicle, and that the incomplete vehicle manufacturer makes no representation as to conformity with the standard.

(b) The document shall be attached to the incomplete vehicle in such a manner that it will not be inadvertently detached, or alternatively, it may be sent directly to a final-stage manufacturer, intermediate manufacturer or purchaser for purposes other than resale to whom the incomplete vehicle is delivered.

§ 568.5 Requirements for intermediate manufacturers.

(a) Each intermediate manufacturer of an incomplete vehicle shall furnish the document required by § 568.4 in the manner specified in that section. If any of the changes in the vehicle made by the intermediate manufacturer affect the validity of the statements in the document as provided to him he shall furnish an addendum to the document that contains his name and mailing address and an indication of all changes that should be made in the document to reflect changes that he made in the vehicle.

(b) Each intermediate manufacturer shall, in accordance with § 567.5 of this chapter, affix a label to each chassis-cab respecting which he is required by paragraph (a) above to furnish an addendum to the document required by § 568.4.

§ 568.6 Requirements for final-stage manufacturers.

(a) Each final-stage manufacturer shall complete the vehicle in such a manner that it conforms to the standards in effect on the date of manufacture of the incomplete vehicle, the date of final completion, or a date between those two dates. This requirement shall, however, be superseded by any conflicting provisions of a standard that applies by its terms to vehicles manufactured in two or more stages.

(b) Each final-stage manufacturer shall certify that the entire vehicle conforms to all applicable standards, in accordance with section 567.5 of Title 49 of the Code of Federal Regulations, *Requirements for manufacturers of vehicles manufactured in two or more stages.*

§ 568.7 Requirements for manufacturers who assume legal responsibility for the vehicle.

(a) If an incomplete vehicle manufacturer assumes legal responsibility for all duties and liabilities imposed on manufacturers by the National Traffic and Motor Vehicle Safety Act (15

U.S.C. 1381-1425) (hereafter referred to as "the Act"), with respect to the vehicle as finally manufactured, the requirements of §§ 568.4, 568.5 and 568.6(b) of this part do not apply to that vehicle. In such a case, the incomplete vehicle manufacturer shall ensure that a label is affixed to the final vehicle in conformity with § 567.5(e) of this chapter.

(b) If an intermediate manufacturer of a vehicle assumes legal responsibility for all duties and liabilities imposed on manufacturers by the Act, with respect to the vehicle as finally manufactured, §§ 568.5 and 568.6(b) of this part do not apply to that vehicle. In such a case, the manufacturer assuming responsibility shall ensure that a label is affixed to the final vehicle in conformity with § 567.5(f) of this chapter. The assumption of responsibility by an intermediate manufacturer does not, however, change the requirements for incomplete vehicle manufacturers in 568.4.

§ 568.8 Requirements for persons who alter certified vehicles.

A person who alters a vehicle that has been previously certified in accordance with § 567.4 or § 567.5, other than by the addition, substitution, or removal of readily attachable components such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, or who alters the vehicle in such a manner that its stated weight ratings are no longer valid, before the first purchase of the vehicle in good faith for purposes other than resale, shall ascertain that the vehicle as altered conforms to the standards in effect on the original date of manufacture of the vehicle, the date of final completion, or a date between those two dates. That person shall certify that the vehicle conforms to all applicable standards in accordance with § 567.7 of this chapter.

**April 14, 1971
36 F.R. 7054**

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(b) If an intermediate manufacturer of a vehicle assumes legal responsibility for all duties and liabilities imposed on manufacturers by the Act, with respect to the vehicle as finally manufactured, §§ 568.5 and 568.6(b) of this part do not apply to that vehicle. In such a case, the manufacturer assuming responsibility shall ensure that a label is affixed to the final vehicle in conformity with § 567.5(f) of this chapter. The assumption of responsibility by an intermediate manufacturer does not, however, change the requirements for incomplete vehicle manufacturers in 568.4.

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**April 14, 1971
36 F.R. 7054**

PREAMBLE TO PART 569—REGROOVED TIRES

(Docket No. 20; Notice No. 4)

The purpose of this amendment is to establish criteria under which regrooved tires may be sold or delivered for introduction into interstate commerce. The regulation allows only tires designed for the regrooving process to be regrooved; specifies dimensional and conditional requirements for the tire after the regrooving process; and sets forth labeling requirements for the tire which is to be regrooved.

Section 204(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1424) provides that no person shall sell, offer for sale, or introduce for sale or delivery for introduction into interstate commerce, any tire or motor vehicle equipped with any tire which has been regrooved but gives the Secretary the authority to permit the sale of regrooved tires and motor vehicles equipped with regrooved tires when the regrooved tires are designed and constructed in a manner consistent with the purposes of the Act.

A Notice was published (32 F.R. 11579) affording interested persons an opportunity to present views, information and data to form the basis for permitting the sale and delivery for introduction into interstate commerce of regrooved tires and motor vehicles equipped with regrooved tires.

After considering the comments, data, information received and the state-of-the-art a proposed regulation setting forth criteria to govern the regrooving of tires was published (33 F.R. 8603). All comments received have been considered.

As proposed, it was not clear that the definition of regroovable and regrooved tires would allow the regrooving of retreaded tires. Two comments asked whether the regulation would allow the established practice of regrooving a retreaded motor vehicle tire. The Administrator has determined that regrooving sound retreaded

tires does not affect their level of safety performance. Accordingly, the regulation as issued is clarified so as to allow regrooving of both original tread and retreaded motor vehicle tires. There is presently under consideration a Federal motor vehicle safety standard for retreaded tires. When this standard is established, retreaded tires that are regrooved will have to conform to the retread requirements as well as the regrooved tire regulations.

*The Notice of Proposed Rule Making appearing in June 12, 1968, issue of the *Federal Register* (33 F.R. 8603) was issued under 23 CFR 256, Parts of the Code of Federal Regulations relating to motor vehicle safety were transferred to Title 49 by Part II of the *Federal Register* of December 25, 1968 (33 F.R. 19700).

Section 256.5(a)(3) as contained in the Notice of Proposed Rule Making would have required that, after the regrooving process, there be a protective covering of tread material at least $\frac{3}{32}$ -inch thick over the tire cord. Four comments asked that this requirement be deleted. It was argued that this would require the removal of regrooved tires with "many usable miles" remaining on the tires.

The $\frac{3}{32}$ -inch undertread requirement is directly comparable to the undertread of a new tire. It is considered necessary that there be $\frac{3}{32}$ of an inch of rubber over the cord material as a protection against road hazard damage. Furthermore, this protection is considered essential in order to prevent moisture entering the ply material and subsequently causing deterioration of the tire fabric and ply adhesion. For these reasons, it is concluded that to allow an undertread of less than $\frac{3}{32}$ of an inch would not be in the public interest.

One comment argued that a tire would have to be completely cut to determine the thickness of the undertread. Since it is acceptable practice to determine undertread depth by use of an awl and only a very limited degree of expertise is

needed to make this measurement without causing damage to the tire, this argument has been rejected.

Section 256.5(a)(4) as contained in the Notice of Proposed Rule Making would have required that after regrooving, the tire have a minimum of 90 linear inches of tread edges per linear foot of tire circumference. Four comments requested clarification of this requirement as to whether the original molded tread was to be included in the measurements for this requirement. The initial intent of this requirement was to include only the newly cut grooves. However, after considering the fact that residual existent grooves offer tread edges which contribute to the traction of the tire, the regulation as issued is revised to allow that portion of the original tread pattern of a regroovable tire which is at least as deep as the new regroove depth to be included within the calculation of the 90 linear inches of tread edges required in each foot of tire circumference.

Section 256.5(a)(5) as contained in the Notice of Proposed Rule Making would have required that, after regrooving, the groove width be a minimum of $\frac{3}{16}$ -inch and a maximum of $\frac{5}{16}$ -inch. Four comments requested clarification whether this requirement applied to the original molded tread pattern as well as the tread pattern created by regrooving. It was not intended that this requirement apply to the original molded tread pattern and the regulation as issued is revised to make this clear.

One comment pointed out that the use of the term "tractionizing" within Section 256.5(b) was too general and that the proper term for cross-cutting the tread without rubber removal is "siping." Accordingly, the regulation as issued is revised to reflect this suggestion.

Section 256.7 as contained in the Notice of Proposed Rule Making specified certain labeling requirements for regroovable and regrooved tires. Four comments contended that the labeling requirements should not be included within the regulation. Two other comments stated that the proposed labeling was too large and requested

smaller size symbols and letters. The Administrator recognizes that several names or brands are used to identify regroovable tires and has therefore determined that concise identification of regroovable tires is needed. For this reason the regulation as issued requires molding on a regroovable tire the word "Regroovable," but permits lettering one half the size proposed in the Notice of Proposed Rule Making. However, with regard to the proposed requirement that each regrooving be indicated on the tire, it was found that such a requirement was not necessary in view of the minimum undertread requirement in the regulation and that proposed requirement has been deleted.

In consideration of the foregoing, Part 369—Regrooved Tire Regulation set forth below is added to Title 49—Transportation, Chapter III—Federal Highway Administration, Department of Transportation, Subchapter A—Motor Vehicle Safety Regulations. [This regulation becomes effective April 1, 1969. (34 F.R. 3687—March 1, 1969.)]

This regulation is issued under authority of Sections 119 and 204 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1407 and 1424) and the delegation from the Secretary of Transportation, Part I of the Regulations of the Office of the Secretary (49 CFR § 1.4(c)).

Issued January 17, 1969.

Lowell K. Bridwell,
Federal Highway Administrator

34 F.R. 1149
January 24, 1969

SECTION

- 369.1 Purpose and Scope
- 369.3 Definitions
- 369.5 Applicability
- 369.7 Requirements
- 369.9 Labeling of Regroovable Tires

PREAMBLE TO PART 569—REGROOVED TIRES

(Docket No. 20; Notice No. 4)

The purpose of this amendment is to establish criteria under which regrooved tires may be sold or delivered for introduction into interstate commerce. The regulation allows only tires designed for the regrooving process to be regrooved; specifies dimensional and conditional requirements for the tire after the regrooving process; and sets forth labeling requirements for the tire which is to be regrooved.

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After considering the comments, data, information received and the state-of-the-art a proposed regulation setting forth criteria to govern the regrooving of tires was published (33 F.R. 8603). All comments received have been considered.

As proposed, it was not clear that the definition of regroovable and regrooved tires would allow the regrooving of retreaded tires. Two comments asked whether the regulation would allow the established practice of regrooving a retreaded motor vehicle tire. The Administrator has determined that regrooving sound retreaded

tires does not affect their level of safety performance. Accordingly, the regulation as issued is clarified so as to allow regrooving of both original tread and retreaded motor vehicle tires. There is presently under consideration a Federal motor vehicle safety standard for retreaded tires. When this standard is established, retreaded tires that are regrooved will have to conform to the retread requirements as well as the regrooved tire regulations.

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Section 256.5(a)(3) as contained in the Notice of Proposed Rule Making would have required that, after the regrooving process, there be a protective covering of tread material at least $\frac{3}{32}$ -inch thick over the tire cord. Four comments asked that this requirement be deleted. It was argued that this would require the removal of regrooved tires with "many usable miles" remaining on the tires.

The $\frac{3}{32}$ -inch undertread requirement is directly comparable to the undertread of a new tire. It is considered necessary that there be $\frac{3}{32}$ of an inch of rubber over the cord material as a protection against road hazard damage. Furthermore, this protection is considered essential in order to prevent moisture entering the ply material and subsequently causing deterioration of the tire fabric and ply adhesion. For these reasons, it is concluded that to allow an undertread of less than $\frac{3}{32}$ of an inch would not be in the public interest.

One comment argued that a tire would have to be completely cut to determine the thickness of the undertread. Since it is acceptable practice to determine undertread depth by use of an awl and only a very limited degree of expertise is

needed to make this measurement without causing damage to the tire, this argument has been rejected.

Section 256.5(a)(4) as contained in the Notice of Proposed Rule Making would have required that after regrooving, the tire have a minimum of 90 linear inches of tread edges per linear foot of tire circumference. Four comments requested clarification of this requirement as to whether the original molded tread was to be included in the measurements for this requirement. The initial intent of this requirement was to include only the newly cut grooves. However, after considering the fact that residual existent grooves offer tread edges which contribute to the traction of the tire, the regulation as issued is revised to allow that portion of the original tread pattern of a regroovable tire which is at least as deep as the new regroove depth to be included within the calculation of the 90 linear inches of tread edges required in each foot of tire circumference.

Section 256.5(a)(5) as contained in the Notice of Proposed Rule Making would have required that, after regrooving, the groove width be a minimum of $\frac{3}{16}$ -inch and a maximum of $\frac{5}{16}$ -inch. Four comments requested clarification whether this requirement applied to the original molded tread pattern as well as the tread pattern created by regrooving. It was not intended that this requirement apply to the original molded tread pattern and the regulation as issued is revised to make this clear.

One comment pointed out that the use of the term "tractionizing" within Section 256.5(b) was too general and that the proper term for cross-cutting the tread without rubber removal is "siping." Accordingly, the regulation as issued is revised to reflect this suggestion.

Section 256.7 as contained in the Notice of Proposed Rule Making specified certain labeling requirements for regroovable and regrooved tires. Four comments contended that the labeling requirements should not be included within the regulation. Two other comments stated that the proposed labeling was too large and requested

smaller size symbols and letters. The Administrator recognizes that several names or brands are used to identify regroovable tires and has therefore determined that concise identification of regroovable tires is needed. For this reason the regulation as issued requires molding on a regroovable tire the word "Regroovable," but permits lettering one half the size proposed in the Notice of Proposed Rule Making. However, with regard to the proposed requirement that each regrooving be indicated on the tire, it was found that such a requirement was not necessary in view of the minimum undertread requirement in the regulation and that proposed requirement has been deleted.

In consideration of the foregoing, Part 369—Regrooved Tire Regulation set forth below is added to Title 49—Transportation, Chapter III—Federal Highway Administration, Department of Transportation, Subchapter A—Motor Vehicle Safety Regulations. [This regulation becomes effective April 1, 1969. (34 F.R. 3687—March 1, 1969.)]

This regulation is issued under authority of Sections 119 and 204 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1407 and 1424) and the delegation from the Secretary of Transportation, Part I of the Regulations of the Office of the Secretary (49 CFR § 1.4(c)).

Issued January 17, 1969.

Lowell K. Bridwell,
Federal Highway Administrator

34 F.R. 1149
January 24, 1969

SECTION

- 369.1 Purpose and Scope**
- 369.3 Definitions**
- 369.5 Applicability**
- 369.7 Requirements**
- 369.9 Labeling of Regroovable Tires**

PREAMBLE TO AMENDMENT TO PART 569—REGROOVED TIRES

(Docket No. 20; Notice 5)

Extension of Effective Date

On January 24, 1969, the Federal Highway Administrator published in the *Federal Register* (34 F.R. 1149) a regulation setting forth the conditions under which regrooved tires would be allowed to be sold, offered for sale, introduced for sale, or delivered for introduction into interstate commerce. As published the regulation had an effective date of February 28, 1969.

Several petitions have been received requesting reconsideration of the regrooved tire regulation. The Administrator finds that the petitions do not raise either substantial arguments that have not been carefully considered in issuing the regulation or matters that would require a change in

the regulation, and, therefore, the petitions are denied.

Several petitioners have requested that the effective date of the regulation be postponed. Upon consideration of these requests, I find that good cause exists for postponing the effective date of the regrooved tire regulation, 49 CFR Part 369, from February 28, 1969, to April 1, 1969.

Issued on February 28, 1969.

John R. Jamieson,
Federal Highway Administrator

**34 F.R. 3687
March 1, 1969**

PREAMBLE TO AMENDMENT TO PART 569—REGROOVED TIRES

(Docket No. 20; Notice 5)

Extension of Effective Date

On January 24, 1969, the Federal Highway Administrator published in the *Federal Register* (34 F.R. 1149) a regulation setting forth the conditions under which regrooved tires would be allowed to be sold, offered for sale, introduced for sale, or delivered for introduction into interstate commerce. As published the regulation had an effective date of February 28, 1969.

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the regulation, and, therefore, the petitions are denied.

Several petitioners have requested that the effective date of the regulation be postponed. Upon consideration of these requests, I find that good cause exists for postponing the effective date of the regrooved tire regulation, 49 CFR Part 369, from February 28, 1969, to April 1, 1969.

Issued on February 28, 1969.

John R. Jamieson,
Federal Highway Administrator

**34 F.R. 3687
March 1, 1969**



PREAMBLE TO AMENDMENT TO PART 569—REGROOVED TIRES

(Docket 74-19; Notice 1)

This notice amends regulations applicable to regrooved and regroovable tires in response to an opinion of the United States Court of Appeals in *NAMBO v. Volpe* 484 F.2d 1294 (D.C. Cir., 1973), cert. denied _____US_____ (1974). The Regrooved Tire regulation was published January 24, 1969 (34 F.R. 1149).

In light of the decision in the case cited, 49 CFR Part 569, "Regrooved Tires," is revised....

Effective date: April 30, 1974. This amendment is issued in response to a decision of the United States Court of Appeals, and in accordance therewith imposes restrictions required by

statute. Accordingly, notice and public procedure thereon are unnecessary and good cause is found for an effective date less than 30 days from publication.

(Secs. 119, 204, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1407, 1424; delegation of authority at 49 CFR 1.51.)

Issued on April 24, 1974.

James B. Gregory
Administrator

39 F.R. 15038
April 30, 1974

PREAMBLE TO AMENDMENT TO PART 569—REGROOVED TIRES

(Docket 74-19; Notice 1)

This notice amends regulations applicable to regrooved and regroovable tires in response to an opinion of the United States Court of Appeals in *NAMBO v. Volpe* 484 F.2d 1294 (D.C. Cir., 1973), cert. denied _____US_____ (1974). The Regrooved Tire regulation was published January 24, 1969 (34 F.R. 1149).

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Issued on April 24, 1974.

James B. Gregory
Administrator

39 F.R. 15038
April 30, 1974

PREAMBLE TO AMENDMENT TO PART 569—REGROOVED TIRES

(Docket No. 74-19; Notice 2)

This amendment of the regulation governing the sale and use of regrooved tires implements a provision of the National Traffic and Motor Vehicle Safety Act (the Act) that the lease as well as the sale of certain regrooved tires be permitted. The Act was amended in 1974 to permit lease as well as sale, following a court decision which construed the Act to permit only the sale of regrooved tires.

Effective Date: March 7, 1977.

For Further Information Contact:

Tad Herlihy, Office of Chief Counsel,
National Highway Traffic Safety Admin-
istration.

Washington, D.C. 20590.
(202-426-9511)

Supplementary Information: Section 204(a) of the National Traffic and Motor Vehicle Safety Act (the Act) (15 U.S.C. § 1424(a)) governs the sale and use of regrooved tires. Regrooved tires are defined in the Act as tires on which a new tread has been produced by cutting into the tread of a worn tire. As enacted originally, § 204(a) provided:

Sec. 204. (a) No person shall sell, offer for sale, or introduce for sale or deliver for introduction in interstate commerce, any tire or motor vehicle equipped with any tire which has been regrooved, except that the Secretary may by order permit the sale of regrooved tires [designed and constructed in accordance with the Act's intent].

Part 569 of NHTSA regulations was issued (34 FR 1149, January 24, 1969) to implement this provision, and its addressed both the circumstances under which lease and sale of re-

grooved tires would be permissible. A United States Court of Appeals found this aspect of Part 569 impermissibly broad, and held invalid that portion of the regulation which would authorize the introduction in interstate commerce of regrooved tires by means other than by sale. (*National Association of Motor Bus Owners v. Brinegar*, 483 F2d 1284 (7th Cir 1973)) Subsequently, the agency amended Part 569 to conform to the court's decision (39 FR 15038, April 30, 1974).

Section 204(a) was amended in 1974 so that the Secretary may by order permit the sale, offer for sale, introduction for sale, or delivery for introduction in interstate commerce of regrooved tires that are properly designed and constructed. (Pub. L. 93-492, § 110(c) (October 27, 1974)) The agency hereby amends § 569.1 and 569.7(a) to reflect this statutory change.

In consideration of the foregoing, 49 CFR Part 569, "Regrooved Tires," is amended. . . .

Effective Date Finding: Because this amendment implements a statutory provision and creates no additional requirement for any person, it is found that notice and public procedure thereon are unnecessary and that an immediate effective date is in the public interest.

(Sec. 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1407); Sec. 110(c), Pub. L. 93-492, 88 Stat. 1484 (15 U.S.C. 1424); delegation of authority at 49 CFR 1.50.)

Issued on February 28, 1977.

John W. Snow
Administrator

42 F.R. 21612
April 28, 1977

PREAMBLE TO AMENDMENT TO PART 569—REGROOVED TIRES

(Docket No. 74-19; Notice 2)

This amendment of the regulation governing the sale and use of regrooved tires implements a provision of the National Traffic and Motor Vehicle Safety Act (the Act) that the lease as well as the sale of certain regrooved tires be permitted. The Act was amended in 1974 to permit lease as well as sale, following a court decision which construed the Act to permit only the sale of regrooved tires.

Effective Date: March 7, 1977.

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Sec. 204. (a) No person shall sell, offer for sale, or introduce for sale or deliver for introduction in interstate commerce, any tire or motor vehicle equipped with any tire which has been regrooved, except that the Secretary may by order permit the sale of regrooved tires [designed and constructed in accordance with the Act's intent].

Part 569 of NHTSA regulations was issued (34 FR 1149, January 24, 1969) to implement this provision, and its addressed both the circumstances under which lease and sale of re-

grooved tires would be permissible. A United States Court of Appeals found this aspect of Part 569 impermissibly broad, and held invalid that portion of the regulation which would authorize the introduction in interstate commerce of regrooved tires by means other than by sale. (*National Association of Motor Bus Owners v. Brinegar*, 483 F2d 1284 (7th Cir 1973)) Subsequently, the agency amended Part 569 to conform to the court's decision (39 FR 15038, April 30, 1974).

Section 204(a) was amended in 1974 so that the Secretary may by order permit the sale, offer for sale, introduction for sale, or delivery for introduction in interstate commerce of regrooved tires that are properly designed and constructed. (Pub. L. 93-492, § 110(c) (October 27, 1974)) The agency hereby amends § 569.1 and 569.7(a) to reflect this statutory change.

In consideration of the foregoing, 49 CFR Part 569, "Regrooved Tires," is amended. . . .

Effective Date Finding: Because this amendment implements a statutory provision and creates no additional requirement for any person, it is found that notice and public procedure thereon are unnecessary and that an immediate effective date is in the public interest.

(Sec. 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1407); Sec. 110(c), Pub. L. 93-492, 88 Stat. 1484 (15 U.S.C. 1424); delegation of authority at 49 CFR 1.50.)

Issued on February 28, 1977.

John W. Snow
Administrator

42 F.R. 21612
April 28, 1977

PART 569—REGROOVED TIRES

§ 569.1 Purpose and Scope.

This part sets forth the conditions under which regrooved and regroovable tires manufactured or regrooved after the effective date of the regulation may be sold, offered for sale, introduced for sale or delivered for introduction into interstate commerce.

§ 569.3 Definitions.

(a) *Statutory Definitions.* All terms used in this part that are defined in Section 102 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391) are used as defined in the Act.

(b) *Motor Vehicle Safety Standard Definitions.* Unless otherwise indicated, all terms used in this part that are defined in the Motor Vehicle Safety Standards, Part 371, of this subchapter (hereinafter "The Standards") are used as defined therein without regard to the applicability of a standard in which a definition is contained.

(c) "Regroovable tire" means a tire, either original tread or retread, designed and constructed with sufficient tread material to permit renewal of the tread pattern or the generation of a new tread pattern in a manner which conforms to this part.

(d) "Regrooved tire" means a tire, either original tread or retread, on which the tread pattern has been renewed or a new tread has been produced by cutting into the tread of a worn tire to a depth equal to or deeper than the molded original groove depth.

§ 569.5 Applicability.

(a) *General.* Except as provided in paragraph (b) of this section, this part applies to all motor vehicle regrooved or regroovable tires manufactured or regrooved after the effective date of the regulation.

(b) *Export.* This part does not apply to regrooved or regroovable tires intended solely for export and so labeled or tagged.

§ 569.7 Requirements.

(a) *Regrooved tires.*

(1) Except insofar as permitted by paragraph (a) (2) of this section, no person shall sell, offer for sale, or introduce or deliver for introduction into interstate commerce regrooved tires produced by removing rubber from the surface of a worn tire tread to generate a new tread pattern. Any person who regrooves tires and leases them to owners or operators of motor vehicles and any person who regrooves his own tires for use on motor vehicle is considered to be a person delivering for introduction into interstate commerce within the meaning of this part.

(2) A regrooved tire may be sold, offered for sale, or introduced for sale or delivered for introduction into interstate commerce only if it conforms to each of the following requirements:

(i) The tire being regrooved shall be a regroovable tire;

(ii) After regrooving, cord material below the grooves shall have a protective covering of tread material at least $\frac{3}{32}$ -inch thick.

(iii) After regrooving, the new grooves generated into the tread material and any residual original molded tread groove which is at or below the new regrooved groove depth shall have a minimum of 90 linear inches of tread edges per linear foot of the circumference:

(iv) After regrooving, the new groove width generated into the tread material shall

be a minimum of $\frac{3}{16}$ -inch and a maximum of $\frac{5}{16}$ -inch.

(v) After regrooving, all new grooves cut into the tread shall provide unobstructed fluid escape passages; and

(vi) After regrooving, the tire shall not contain any of the following defects, as determined by a visual examination of the tire either mounted on the rim, or dismounted, whichever is applicable:

(A) Cracking which extends to the fabric,

(B) Groove cracks or wear extending to the fabric, or

(c) Evidence of ply, tread, or sidewall separation.

(vi) If the tire is siped by cutting the tread surface without removing rubber, the tire cord material shall not be damaged as a result of the siping process, and no sipe shall be deeper than the original or retread groove depth.

(b) *Siped regroovable tires.* No person shall sell, offer for sale, or introduce for sale or deliver for introduction into interstate commerce a regroovable tire that has been siped by cutting the tread surface without removing rubber if the tire cord material is damaged as a result of the siping process, or if the tire is siped deeper than the original or retread groove depth.

§ 569.9 Labeling of Regroovable Tires.

(a) *Regroovable Tires.* After August 30, 1969, each tire designed and constructed for regrooving shall be labeled on both sidewalls with the word "Regroovable" molded on or into the tire in raised or recessed letters .025 to .040 inches. The word "Regroovable" shall be in letters 0.38 to 0.50 inches in height and not less than 4 inches and not more than 6 inches in length. The lettering shall be located in the sidewall of the tire between the maximum section width and the bead in an area which will not be obstructed by the rim flange.

**34 F.R. 1150
January 24, 1969**

PART 569—REGROOVED TIRES

§ 569.1 Purpose and Scope.

This part sets forth the conditions under which regrooved and regroovable tires manufactured or regrooved after the effective date of the regulation may be sold, offered for sale, introduced for sale or delivered for introduction into interstate commerce.

§ 569.3 Definitions.

(a) *Statutory Definitions.* All terms used in this part that are defined in Section 102 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391) are used as defined in the Act.

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(d) "Regrooved tire" means a tire, either original tread or retread, on which the tread pattern has been renewed or a new tread has been produced by cutting into the tread of a worn tire to a depth equal to or deeper than the molded original groove depth.

§ 569.5 Applicability.

(a) *General.* Except as provided in paragraph (b) of this section, this part applies to all motor vehicle regrooved or regroovable tires manufactured or regrooved after the effective date of the regulation.

(b) *Export.* This part does not apply to regrooved or regroovable tires intended solely for export and so labeled or tagged.

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(a) *Regrooved tires.*

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**34 F.R. 1150
January 24, 1969**

PREAMBLE TO PART 570—VEHICLE IN USE INSPECTION STANDARDS

(Docket No. 73-9; Notice 2)

This notice adds Part 570, *Vehicle In Use Inspection Standards* to Chapter V, Title 49, Code of Federal Regulations.

Part 570 does not in itself impose requirements on any person. It is intended to be implemented by the States through the highway safety program standards issued under the Highway Safety Act (23 U.S.C. 402) with respect to inspection of motor vehicles with a gross vehicle weight rating of 10,000 pounds or less, except motorcycles and trailers. General provisions regarding vehicle inspection are set forth in NHTSA Highway Safety Program Manual Vol. 1 *Periodic Motor Vehicle Inspection*. Standards and procedures are adopted for hydraulic service brake systems, steering and suspension systems, tire and wheel assemblies.

Interested persons have been afforded an opportunity to participate in the making of these amendments by a notice of proposed rulemaking published in the *Federal Register* on April 2, 1973 (38 F.R. 8451), and due consideration has been given to all comments received in response to the notice, insofar as they relate to matters within the scope of the notice. Except for editorial changes, and except as specifically discussed herein, these amendments and the reasons therefore are the same as those contained in the notice.

Policy considerations. A total of 120 comments were received in response to the notice. These comments were submitted by State motor vehicle agencies, national safety organizations, motor vehicle associations, vehicle and equipment manufacturers, antique car clubs and owners, public interest groups, and individual citizens. The commenters were predominantly in favor of periodic motor vehicle inspection (PMVI) and the establishment of uniform motor vehicle in use safety standards throughout the United States.

As the NHTSA stated in the prior notice, cost-benefit factors were the primary policy consideration in developing the inspection standards and procedures. The primary concern of the States was the socioeconomic impact on the motoring public as well as the impact on the State itself. The general consensus was that the proposed inspection requirements would require a significant increase in facilities, operating personnel, and equipment. Though cost effectiveness was a predominant concern the States nevertheless felt that inspections should include vehicles over 10,000 pounds gross vehicle weight and be extended to include other vehicle systems. Several States expressed concern for the cost of implementing the proposed standards, estimating it at from \$10 to \$14 per car. Even though these States favored PMVI and now have PMVI or random inspection they felt that implementation costs would have a decided economic impact.

NHTSA has responded to these comments allowing an optional road test as a check of service brake system performance, adopting neither of the proposed parking brake procedures, and simplifying test procedures where possible so that tests may be conducted with a minimum added expenditure for equipment, personnel, and facilities. These matters will be discussed subsequently.

The establishment of the proposed standards as "minimum requirements" was questioned by several States as leading to a "watering down" of current requirements in those States which currently meet or exceed them. The NHTSA repeats its intent that the standards are not intended to supplant State standards that establish a higher performance, or to discourage them from establishing or maintaining standards for other vehicle systems not covered by NHTSA.

A number of comments were received from antique car clubs and individual owners who believe that antique, special interest, and vintage cars should be exempt from the proposed standards. These comments should be directed to the States. Each State has its own definitions and registration requirements for vehicles of this nature, and the NHTSA intends the States to implement Part 570 to the extent that it is compatible with its current requirements for these special vehicles.

Several respondents commented that the proposed standard should be expanded to include lighting, glazing, exhaust, wipers, horns, controls, and instrumentation systems. The consensus was that the cost-benefit ratio would materially increase if these systems were included in the proposed standard since inspection of these systems does not require time-consuming procedures or special tools, and corrective measures are less costly to the owner. Some considered it contradictory that safety systems covered by the Federal standards must meet safety performance requirements at the time of manufacture and not during the service life of the vehicle. As the NHTSA stated in the prior notice, the initial Federal effort is intended to cover those vehicles and vehicle systems whose maintenance in good order has proven critical to the prevention of traffic accidents. Requirements for motorcycles and trailers, and for less critical systems, are under study, and the NHTSA intends to take such rulemaking action in the future as may be appropriate to cover them.

Applicability. A frequent comment was that the standards and procedures should be extended to cover vehicles whose GVWR exceeds 10,000 pounds. Because braking and steering and suspension systems on these vehicles differ materially from those on lighter vehicles, different criteria must be established and the proposed standards simply cannot be extended to cover them. The NHTSA, however, is developing appropriate inspection standards and procedures for heavy vehicles and will propose them in a notice to be issued by mid-October 1973.

Brake systems. Several comments were received questioning the procedure for determining operability of the brake failure indicator lamp.

In some vehicles the parking brake indicator and service brake system failure indicator use the lamp and the methods of simulating failure vary.

It is realized that the procedure specified by the standard is general in nature and cannot cover all possible systems. In those vehicles where a lamp test cannot be executed in the normal manner the test will have to be conducted in accordance with the manufacturer's specifications, as determined by the vehicle inspector.

The brake system integrity test for fluid leakage has been modified on the basis of comments that it was not stringent enough. It was proposed that decrease in pedal height under 125 pounds force for 10 seconds should not exceed one-quarter of an inch. The requirement adopted is that there be no perceptible decrease in pedal height when 125 pounds of force is applied to the brake pedal and held for 30 seconds.

The brake pedal reserve test has been adopted substantially as proposed, and specifies that the engine be operating at the time of the test. Vehicles with full power (central hydraulic) brake systems are exempted from this test as the service brake performance test will be adequate to test such systems.

The service brake performance test offers the option of a road test, or testing upon a drive-on platform or roller-type brake analyzer (originally proposed under the title "Brake equalization"). States that conduct random inspections, and those that designate agents to perform vehicle inspections, objected strenuously to a test requiring the use of roller-type or drive-on test equipment. Consequently, an alternate test has been adopted which requires vehicles to stop from 20 mph in 25 feet or less without leaving a 12-foot wide lane. It is intended that this option be used only by States where it is current practice, and it is hoped that such States where practicable will change to the drive-on brake platform or roller-type brake analyzer tests. The terms "crimped" and "damaged" have been eliminated as causes for rejection of brake hoses, as redundant. If brake discs and drums are not embossed with safety tolerances, the requirement has been added that they be within the manufacturer's recommended specifications.

PREAMBLE TO PART 570—VEHICLE IN USE INSPECTION STANDARDS

(Docket No. 73-9; Notice 2)

This notice adds Part 570, *Vehicle In Use Inspection Standards* to Chapter V, Title 49, Code of Federal Regulations.

Part 570 does not in itself impose requirements on any person. It is intended to be implemented by the States through the highway safety program standards issued under the Highway Safety Act (23 U.S.C. 402) with respect to inspection of motor vehicles with a gross vehicle weight rating of 10,000 pounds or less, except motorcycles and trailers. General provisions regarding vehicle inspection are set forth in NHTSA Highway Safety Program Manual Vol. 1 *Periodic Motor Vehicle Inspection*. Standards and procedures are adopted for hydraulic service brake systems, steering and suspension systems, tire and wheel assemblies.

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As the NHTSA stated in the prior notice, cost-benefit factors were the primary policy consideration in developing the inspection standards and procedures. The primary concern of the States was the socioeconomic impact on the motoring public as well as the impact on the State itself. The general consensus was that the proposed inspection requirements would require a significant increase in facilities, operating personnel, and equipment. Though cost effectiveness was a predominant concern the States nevertheless felt that inspections should include vehicles over 10,000 pounds gross vehicle weight and be extended to include other vehicle systems. Several States expressed concern for the cost of implementing the proposed standards, estimating it at from \$10 to \$14 per car. Even though these States favored PMVI and now have PMVI or random inspection they felt that implementation costs would have a decided economic impact.

NHTSA has responded to these comments allowing an optional road test as a check of service brake system performance, adopting neither of the proposed parking brake procedures, and simplifying test procedures where possible so that tests may be conducted with a minimum added expenditure for equipment, personnel, and facilities. These matters will be discussed subsequently.

The establishment of the proposed standards as "minimum requirements" was questioned by several States as leading to a "watering down" of current requirements in those States which currently meet or exceed them. The NHTSA repeats its intent that the standards are not intended to supplant State standards that establish a higher performance, or to discourage them from establishing or maintaining standards for other vehicle systems not covered by NHTSA.

A number of comments were received from antique car clubs and individual owners who believe that antique, special interest, and vintage cars should be exempt from the proposed standards. These comments should be directed to the States. Each State has its own definitions and registration requirements for vehicles of this nature, and the NHTSA intends the States to implement Part 570 to the extent that it is compatible with its current requirements for these special vehicles.

Several respondents commented that the proposed standard should be expanded to include lighting, glazing, exhaust, wipers, horns, controls, and instrumentation systems. The consensus was that the cost-benefit ratio would materially increase if these systems were included in the proposed standard since inspection of these systems does not require time-consuming procedures or special tools, and corrective measures are less costly to the owner. Some considered it contradictory that safety systems covered by the Federal standards must meet safety performance requirements at the time of manufacture and not during the service life of the vehicle. As the NHTSA stated in the prior notice, the initial Federal effort is intended to cover those vehicles and vehicle systems whose maintenance in good order has proven critical to the prevention of traffic accidents. Requirements for motorcycles and trailers, and for less critical systems, are under study, and the NHTSA intends to take such rulemaking action in the future as may be appropriate to cover them.

Applicability. A frequent comment was that the standards and procedures should be extended to cover vehicles whose GVWR exceeds 10,000 pounds. Because braking and steering and suspension systems on these vehicles differ materially from those on lighter vehicles, different criteria must be established and the proposed standards simply cannot be extended to cover them. The NHTSA, however, is developing appropriate inspection standards and procedures for heavy vehicles and will propose them in a notice to be issued by mid-October 1973.

Brake systems. Several comments were received questioning the procedure for determining operability of the brake failure indicator lamp.

In some vehicles the parking brake indicator and service brake system failure indicator use the lamp and the methods of simulating failure vary.

It is realized that the procedure specified by the standard is general in nature and cannot cover all possible systems. In those vehicles where a lamp test cannot be executed in the normal manner the test will have to be conducted in accordance with the manufacturer's specifications, as determined by the vehicle inspector.

The brake system integrity test for fluid leakage has been modified on the basis of comments that it was not stringent enough. It was proposed that decrease in pedal height under 125 pounds force for 10 seconds should not exceed one-quarter of an inch. The requirement adopted is that there be no perceptible decrease in pedal height when 125 pounds of force is applied to the brake pedal and held for 30 seconds.

The brake pedal reserve test has been adopted substantially as proposed, and specifies that the engine be operating at the time of the test. Vehicles with full power (central hydraulic) brake systems are exempted from this test as the service brake performance test will be adequate to test such systems.

The service brake performance test offers the option of a road test, or testing upon a drive-on platform or roller-type brake analyzer (originally proposed under the title "Brake equalization"). States that conduct random inspections, and those that designate agents to perform vehicle inspections, objected strenuously to a test requiring the use of roller-type or drive-on test equipment. Consequently, an alternate test has been adopted which requires vehicles to stop from 20 mph in 25 feet or less without leaving a 12-foot wide lane. It is intended that this option be used only by States where it is current practice, and it is hoped that such States where practicable will change to the drive-on brake platform or roller-type brake analyzer tests. The terms "crimped" and "damaged" have been eliminated as causes for rejection of brake hoses, as redundant. If brake discs and drums are not embossed with safety tolerances, the requirement has been added that they be within the manufacturer's recommended specifications.

The primary concern regarding power assist units was that the brake pedal will rise instead of falling on a full-power brake system when tested according to the procedure proposed. In view of the basic design of a full-power brake system this test would not be a proper check of system operation, and will not be required. As noted earlier, the service brake performance test will be used as the primary test of the full-power brake performance. To accord with the terminology of Standard No. 105a this section has been renamed "Brake power units."

The parking brake system inspection proposal proved controversial. The NHTSA proposed two objective, alternate tests, the first requiring the system to hold the vehicle on a 17 percent grade, and the second requiring the system to stop the vehicle from 20 mph within 54 feet. The first was objected to principally on the ground that each inspection station would have to construct a 17 percent grade. This would present problems for both in-line and bay type inspection facilities. The stopping distance test, on the other hand, was opposed as a dynamic test more appropriate for service brake evaluation. In view of these objections, the parking brake inspection requirements were not adopted.

Steering and suspension systems. The primary objections to the steering wheel test for free play concerned the test condition with the engine off on vehicles equipped with power steering, the linear measure of system free play (instead of angular measure to eliminate the variance due to steering wheel diameters), and the 2-inch free play limit for rack and pinion type steering gear.

The tolerance proposed and adopted for steering wheel free play is 2 inches for wheels of 16 inches diameter or less, since few passenger car steering wheels exceed this diameter. However, a table of free play values for older vehicles with steering wheels over 16 inches in diameter has been added to the standard. The requirement to have the engine running is being added to the procedure since steering wheel play can be greater with the engine off than with the engine on for cars equipped with power steering. Steering play on cars equipped with rack and pinion type steering will require further review

to determine if the 2-inch tolerance should be changed.

Some comments argued that wheel alignment tolerances were considered too restrictive in the toe-in condition, and too lenient in toe-out. Some comments recommended visual inspection of tire wear as criteria to determine alignment. However, visual inspection of tire wear is not considered a valid method of checking alignment, and therefore was not adopted as an alternate method. No consensus of alternative values could be derived from the comments, and the proposed tolerances of 30 feet per mile have been adopted.

The requirements for the condition of shock absorber mountings, shackles, and U-bolts have been changed from "tight" to "securely attached" as a clarification.

Tire and wheel assembly standards and inspection procedures. Several comments were received suggesting that rim deformation in excess of one-sixteenth of an inch be permitted, as the proposed tolerance would result in rejection of otherwise safe vehicles. The primary concern of the requirement is air retention, and since vehicles with wheel deformation of one-sixteenth of an inch apparently perform satisfactorily in service without hazard the deformation tolerance has been increased to three thirty-seconds of an inch runout for both lateral and radial bead seat areas.

Effectivity. Several commenters questioned the proposed effective date, 30 days after publication of the final rule. The NHTSA considers it in the public interest that minimum Federal standards for motor vehicles in use become effective without further delay. Implementation by the States will take place within the context of their highway safety programs, and the plans approved by the NHTSA under the Highway Safety Act, 23 U.S.C. 402.

In consideration of the foregoing, Title 49, Code of Federal Regulations is amended by adding Part 570 to read as set forth below.

Effective date. Sept. 28, 1973. Since this part does not in itself impose requirements on any person it is determined for good cause shown that an effective date earlier than 180 days after

Effective: September 28, 1973

publication of the final rule is in the public interest.

(Sec. 103, 108, 119, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1397, 1407; delegation of authority at 49 CFR 1.51.)

Issued on: Aug. 29, 1973.

**James B. Gregory
Administrator**

**38 F.R. 23949
September 5, 1973**

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Issued on: Aug. 29, 1973.

**James B. Gregory
Administrator**

**38 F.R. 23949
September 5, 1973**

PREAMBLE TO AMENDMENT TO PART 570—VEHICLE IN USE INSPECTION STANDARDS

(Docket No. 73-9; Notice 4)

This notice responds to petitions for reconsideration of Vehicle In Use Inspection Standards and amends the standards in certain minor respects.

The Vehicle In Use Inspection Standards, 49 CFR Part 570, were published on September 5, 1973 (38 F.R. 23919). Thereafter, pursuant to 49 CFR 553.35, petitions for reconsideration of the rule were received from Motor Vehicle Manufacturers Association (MVMA), Rubber Manufacturers Association (RMA), Firestone Tire and Rubber Company (Firestone), General Motors Corporation (GM), and Ford Motor Company (Ford). This notice discusses the major issues raised by these petitions and their resolution.

Ford called NHTSA's attention to an oversight in the inspection procedure for brake pedal reserve in § 570.5. Notice 1 proposed a force of 25 pounds for power-assisted brake systems and 50 pounds for all other brake systems. These forces were inadvertently omitted in Notice 2, and, accordingly, § 570.5 is amended to include them.

GM and the MVMA requested that the period during which a 125-pound force is applied to the brake pedal be reduced from 30 seconds to 10 seconds. Since the purpose of the standard is to check for brake fluid leakage, and this can be determined during a 10-second period, the petition is granted.

Ford requested that § 570.5(e) "Service Brake System—Brake Hoses and Assemblies" be amended to allow "rub rings," installed as hose protection devices, to come in contact with a vehicle body or chassis. The purpose of these devices as stated by Ford is to prevent damage to hose or tubing and thus promote motor vehicle safety. NHTSA, after investigation, has determined that rub rings or similar protective devices

do provide brake hose and tube protection, and § 570.5(e) is amended accordingly. However, should the rub rings wear or abrade to the extent that the hoses or tubing contact the chassis or vehicle body, the vehicle should be rejected.

GM requested that the procedure for inspecting steering wheel lash in § 570.7(a) be revised so as to yield more consistent results between examiners and inspection stations. It was GM's contention that the term "perceptible movement" was too subjective, and that the many intangible factors involved in the inspection procedure would not provide an objective and repeatable test. The procedure recommended by GM would involve applying a specified force in one direction to remove lash and provide a small amount of torsional wind up, releasing the wheel, and applying another force in the same direction to establish a reference point. The process would be repeated in the opposite direction to establish a second reference point. The distance between the two points would then be measured.

Although the inspection procedure proposed by GM may provide a more objective test of steering system play, it is the belief of NHTSA that additional time will be required to evaluate their proposal under field test conditions with various steering wheel diameters. Therefore, action on this request will be held in abeyance pending completion of such a study.

Ford and GM requested a change in the toe-in alignment specifications listed in § 570.7(d), stating that several vehicles currently in service would exceed the 30 ft/mi toe-in limits established in the standard. For example, 1974 Ford Service Specifications—Tire Scrub (based on a 29-in diameter tire/wheel assembly) shows a maximum toe-in for certain Ford vehicles of 82.5 ft/mi based on 11.78 ft/mi tire scrub for each $\frac{1}{16}$ -in toe-in. In its submission to Docket

No. 73-9, Ford recommended that the toe-in requirement be no more stringent than 1.5 times the manufacturer's maximum toe-in specification. In consideration of the wide variance between manufacturers' toe-in specification, the limits of ± 30 ft/mi currently used in some State inspections appear to be reasonable for some vehicles and unduly restrictive for others. § 570.7(d), therefore, is amended to make the requirement more equitable.

The NHTSA, however, believes that wheel alignment designs with high toe-in values are not in the best interests of the consumer, as both tire wear and fuel economy are affected adversely with high toe-in/toe-out conditions. For this reason, industry action to alleviate this problem will be carefully observed.

RMA and Firestone petitioned for a clarification of the language of § 570.9(b) concerning tire type. It was suggested that "tire size designation" would be more explicit than tire "nominal size." NHTSA believes the suggested phrase more clearly defines the intent of the standard, and the petition is granted.

The petitioners additionally contend that the language in § 570.9(b)(i), notably "major mismatch" and "major deviation," could lead the inspector to reject tires that do not have exactly the tire size designation(s) specified by the vehicle manufacturer. NHTSA disagrees with this interpretation of the inspection procedure. The language allows the inspector to pass any vehicle equipped with tires that meet the published vehicle-manufacturer or RMA criteria for tire replacement. Tires with special characteristics such as extra wide sport type tires, "slicks", and extra low profile tires would not meet the criteria for replacement tires. The petition is, therefore, denied.

Both RMA and Firestone requested a change in the language of § 570.9(d)(i) which specified the use of an awl to probe cuts on tires as a method for evaluating the extent of tire damage. Firestone strongly recommended the use of a

"blunt instrument" rather than an awl to prevent further damage to the tire. The NHTSA feels that this is a constructive request, and the petition is granted.

RMA and GM requested a change in § 570.10 (b) regarding the limits and the procedure for checking lateral and radial runout of wheel assemblies. GM contended, based on a survey of 500 vehicles of its employees, that the $\frac{3}{32}$ in runout specification is too restrictive and that owners of vehicle with runouts of 0.050 to 0.225 in did not experience loss of air pressure or any detectable vibration. GM recommended a runout specification of at least $\frac{1}{8}$ in. After reviewing the GM data, NHTSA has determined that the request is reasonable and, therefore, the petition is granted. Accordingly § 570.10(b) is amended to reflect the $\frac{1}{8}$ -in radial and lateral runout limits.

Finally there were several requests to include provisions for non-matching spare or emergency tires, prohibition of radial-ply tire mix with any other tire type on the same vehicle, and recommendations for inclusion of minimum criteria for accuracy of test devices. Since these topics were not included in prior rulemaking notices, these recommendations will be considered for future action.

In consideration of the foregoing, 49 CFR Part 570, Vehicle In Use Inspection Standards, is amended. . . .

Effective date: May 9, 1974.

(Sec. 103, 108, 119, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1397, 1401; delegation of authority at 49 CFR 1.51.)

Issued on April 3, 1974.

James B. Gregory
Administrator

39 F.R. 12867
April 9, 1974

PREAMBLE TO AMENDMENT TO PART 570—VEHICLE IN USE INSPECTION STANDARDS

(Docket No. 73-9; Notice 4)

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Issued on April 3, 1974.

James B. Gregory
Administrator

39 F.R. 12867
April 9, 1974

PREAMBLE TO AMENDMENT TO PART 570—VEHICLE IN USE INSPECTION STANDARDS

(Docket No. 73-9; Notice 7)

This notice amends Part 570, Vehicle in Use Inspection Standards, Chapter V, Title 49, Code of Federal Regulations by adding inspection standards and procedures for brake systems, steering and suspension systems, and tire and wheel assemblies for all motor vehicles with a gross vehicle weight rating that exceeds 10,000 pounds.

Interested persons have been afforded an opportunity to participate in the making of these amendments by a notice of proposed rulemaking published in the *Federal Register* on October 11, 1973 (38 CFR 28077), and due consideration has been given to all comments received in response to the notice.

A total of twenty-nine comments were received in response to the notice. These comments were submitted by State motor vehicle agencies, motor vehicle manufacturers, tire and brake equipment manufacturers, the Motor Vehicle Manufacturers Association, and the American Association of Motor Vehicle Administrators. The comments were predominantly in favor of periodic motor vehicle inspection, although problem areas in the inspection of vehicles over 10,000 pounds were presented.

An exemption for mobile homes from the proposed rulemaking action was requested by the Mobile Home Manufacturers Association who contended that since mobile homes are moved about 2.3 times during their life span and are constructed for use primarily as residential dwellings and not as motor vehicles for use on the highways, they should be excluded from the proposed regulation. The Recreational Vehicle Institute, however, suggested that different inspection frequencies for motor homes and recreational trailers as related to other commercial

vehicles would be appropriate. The NHTSA concludes that motor homes and recreational vehicles should not be excluded from periodic inspection, but the period between inspections should be determined by the States based on the requirements that may be unique to their particular jurisdiction.

The Professional Drivers Council suggested that inspection intervals should be based upon vehicle use, in lieu of calendar periods, in order to ensure adequate inspection frequency. They suggested 20,000 miles between inspections as a feasible criterion. Although NHTSA agrees that distance as well as time is an important criterion in determining inspection intervals, it has concluded that each State should determine inspection intervals based upon the driving conditions experienced by motor vehicles within its jurisdiction.

Many comments questioned the time required to check the brake system integrity of a hydraulic brake system, and suggested that the time of application be changed to 10 seconds. Since the purpose of this check is to determine whether there is any leakage of hydraulic fluid during operational conditions, and the consensus of comments indicates that this can be accomplished equally well during a 10-second test, the suggestion is adopted and § 570.55 will be worded accordingly.

Ford and MVMA requested that a brake pedal force be included in the brake pedal reserve check, and that a note be added regarding the effect of a vacuum booster on test validity. The suggestion to include a pedal force is considered valid, and § 570.55(c) will include a brake pedal force of 50 lbs. NHTSA concludes, however, that the terminology "full power (central hydraulic) brake system and brake systems de-

signed to operate with greater than 80% pedal travel" properly describes brake systems, and that a note to include a reference to a vacuum booster is not required.

Several comments suggested exemption of protective rings from consideration as part of a hose or tubing assembly. These have been found to have merit, and § 570.55(d) exempts protective rings or devices from consideration in regard to contact with vehicle body or chassis.

Several comments were received requesting clarification of the requirements of truck and trailer vacuum system checks in § 570.56. In response, this section has been rewritten to require the capability of at least one service brake application at a 50-pound brake pedal pressure after the engine has been turned off to verify operation of vacuum system. The inspection procedure has been revised to cover trailers equipped either with brake chamber rods or with enclosed chambers and hydraulic systems.

A large number of comments were received regarding § 570.57 (Air Brake System Integrity). This section has been altered from the proposal to change air pressure limits, time of test, and engine idling speed, thus clarifying the terminology and allowing test limits to more properly reflect operating conditions.

Comments on § 570.58 were submitted by Wagner and MVMA regarding wire gage and current capacity, sensing of surge force during test, and comparison of GVWR to capacity and number of brakes. The NHTSA concludes that § 570.58 properly covers these areas and that no change from the proposal is necessary.

Several comments were received on § 570.59, service brake system testing, regarding the feasibility of roller-type or drive-on platform testers for large vehicles, and questioning the 25-percent allowable imbalance of braking forces between wheels on same axle. Since the test procedure is designed to locate a serious imbalance condition, the NHTSA concludes that the recommended 25 percent or less imbalance requirement will provide the desired safety benefit. However, if future test data show that upgrading the requirement to a 20 percent maximum imbalance is warranted, NHTSA shall propose that the requirement be made more stringent.

The feasibility of inspection of brake linings and other internal components as compared to road testing was questioned by several commentators. While the optimum inspection of brake assemblies would require the removal of the wheels, the NHTSA has found that the removal of a wheel in most vehicles in the 10,000 pound and over GVWR class requires special skills and training, as well as replacement of oil seals, for reassembly. Therefore, this inspection procedure is limited to wheels which are equipped with inspection ports or access openings, thereby avoiding the need to remove the wheels.

Several comments were received regarding stopping distances of 35 feet versus 40 feet for combination vehicles and truck tractors for the road test at 20 mph. The present Bureau of Motor Carrier Safety standard is 40 feet, and NHTSA has decided that this value is adequate for safety purposes. The standard is worded accordingly.

In response to the comments received, the inspection procedure for checking front wheel steering linkage free play in § 570.60 is changed from the proposal to provide for proper testing of vehicles with and without power steering. Alignment limits are increased to 1.5 times the value listed in the vehicle manufacturer's service specification for alignment setting to allow for variations in vehicles due to age and differences in test equipment readouts.

Commentors on § 570.61, suspension system, requested clarification of the proposed requirement that "Springs shall not be broken or extended by spacers." This sentence is reworded to read "Springs shall not be broken and coil springs shall not be extended by spacers."

Several comments were received regarding tread depth requirements in § 570.62, and the number of places around the circumference of a tire where measurements should be taken. The standard is worded so as to measure tread depth in two adjacent major grooves at three locations spaced approximately 120 degrees apart for tires without tread wear indicators. A clarification was requested of the use of the terms "construction", "profile", and "nominal size" in describing tires and of the $\frac{3}{8}$ in. limit on overall diameter.

PREAMBLE TO AMENDMENT TO PART 570—VEHICLE IN USE INSPECTION STANDARDS

(Docket No. 73-9; Notice 7)

This notice amends Part 570, Vehicle in Use Inspection Standards, Chapter V, Title 49, Code of Federal Regulations by adding inspection standards and procedures for brake systems, steering and suspension systems, and tire and wheel assemblies for all motor vehicles with a gross vehicle weight rating that exceeds 10,000 pounds.

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A total of twenty-nine comments were received in response to the notice. These comments were submitted by State motor vehicle agencies, motor vehicle manufacturers, tire and brake equipment manufacturers, the Motor Vehicle Manufacturers Association, and the American Association of Motor Vehicle Administrators. The comments were predominantly in favor of periodic motor vehicle inspection, although problem areas in the inspection of vehicles over 10,000 pounds were presented.

An exemption for mobile homes from the proposed rulemaking action was requested by the Mobile Home Manufacturers Association who contended that since mobile homes are moved about 2.3 times during their life span and are constructed for use primarily as residential dwellings and not as motor vehicles for use on the highways, they should be excluded from the proposed regulation. The Recreational Vehicle Institute, however, suggested that different inspection frequencies for motor homes and recreational trailers as related to other commercial

vehicles would be appropriate. The NHTSA concludes that motor homes and recreational vehicles should not be excluded from periodic inspection, but the period between inspections should be determined by the States based on the requirements that may be unique to their particular jurisdiction.

The Professional Drivers Council suggested that inspection intervals should be based upon vehicle use, in lieu of calendar periods, in order to ensure adequate inspection frequency. They suggested 20,000 miles between inspections as a feasible criterion. Although NHTSA agrees that distance as well as time is an important criterion in determining inspection intervals, it has concluded that each State should determine inspection intervals based upon the driving conditions experienced by motor vehicles within its jurisdiction.

Many comments questioned the time required to check the brake system integrity of a hydraulic brake system, and suggested that the time of application be changed to 10 seconds. Since the purpose of this check is to determine whether there is any leakage of hydraulic fluid during operational conditions, and the consensus of comments indicates that this can be accomplished equally well during a 10-second test, the suggestion is adopted and § 570.55 will be worded accordingly.

Ford and MVMA requested that a brake pedal force be included in the brake pedal reserve check, and that a note be added regarding the effect of a vacuum booster on test validity. The suggestion to include a pedal force is considered valid, and § 570.55(c) will include a brake pedal force of 50 lbs. NHTSA concludes, however, that the terminology "full power (central hydraulic) brake system and brake systems de-

signed to operate with greater than 80% pedal travel" properly describes brake systems, and that a note to include a reference to a vacuum booster is not required.

Several comments suggested exemption of protective rings from consideration as part of a hose or tubing assembly. These have been found to have merit, and § 570.55(d) exempts protective rings or devices from consideration in regard to contact with vehicle body or chassis.

Several comments were received requesting clarification of the requirements of truck and trailer vacuum system checks in § 570.56. In response, this section has been rewritten to require the capability of at least one service brake application at a 50-pound brake pedal pressure after the engine has been turned off to verify operation of vacuum system. The inspection procedure has been revised to cover trailers equipped either with brake chamber rods or with enclosed chambers and hydraulic systems.

A large number of comments were received regarding § 570.57 (Air Brake System Integrity). This section has been altered from the proposal to change air pressure limits, time of test, and engine idling speed, thus clarifying the terminology and allowing test limits to more properly reflect operating conditions.

Comments on § 570.58 were submitted by Wagner and MVMA regarding wire gage and current capacity, sensing of surge force during test, and comparison of GVWR to capacity and number of brakes. The NHTSA concludes that § 570.58 properly covers these areas and that no change from the proposal is necessary.

Several comments were received on § 570.59, service brake system testing, regarding the feasibility of roller-type or drive-on platform testers for large vehicles, and questioning the 25-percent allowable imbalance of braking forces between wheels on same axle. Since the test procedure is designed to locate a serious imbalance condition, the NHTSA concludes that the recommended 25 percent or less imbalance requirement will provide the desired safety benefit. However, if future test data show that upgrading the requirement to a 20 percent maximum imbalance is warranted, NHTSA shall propose that the requirement be made more stringent.

The feasibility of inspection of brake linings and other internal components as compared to road testing was questioned by several commentators. While the optimum inspection of brake assemblies would require the removal of the wheels, the NHTSA has found that the removal of a wheel in most vehicles in the 10,000 pound and over GVWR class requires special skills and training, as well as replacement of oil seals, for reassembly. Therefore, this inspection procedure is limited to wheels which are equipped with inspection ports or access openings, thereby avoiding the need to remove the wheels.

Several comments were received regarding stopping distances of 35 feet versus 40 feet for combination vehicles and truck tractors for the road test at 20 mph. The present Bureau of Motor Carrier Safety standard is 40 feet, and NHTSA has decided that this value is adequate for safety purposes. The standard is worded accordingly.

In response to the comments received, the inspection procedure for checking front wheel steering linkage free play in § 570.60 is changed from the proposal to provide for proper testing of vehicles with and without power steering. Alignment limits are increased to 1.5 times the value listed in the vehicle manufacturer's service specification for alignment setting to allow for variations in vehicles due to age and differences in test equipment readouts.

Commentors on § 570.61, suspension system, requested clarification of the proposed requirement that "Springs shall not be broken or extended by spacers." This sentence is reworded to read "Springs shall not be broken and coil springs shall not be extended by spacers."

Several comments were received regarding tread depth requirements in § 570.62, and the number of places around the circumference of a tire where measurements should be taken. The standard is worded so as to measure tread depth in two adjacent major grooves at three locations spaced approximately 120 degrees apart for tires without tread wear indicators. A clarification was requested of the use of the terms "construction", "profile", and "nominal size" in describing tires and of the $\frac{3}{8}$ in. limit on overall diameter.

In response, this section is worded to read "Vehicles should be equipped with tires on the same axle that are matched in construction and size designation, and dual tires shall be matched for overall diameter within one-half inch."

In consideration of the foregoing, 49 CFR Part 570, Vehicle In Use Inspection Standards, is amended by denoting the existing sections 570.1 through 570.10 as Subpart A, *Vehicles with GVWR of 10,000 Pounds or Less*, and by adding a new Subpart B, *Vehicles with GVWR of More Than 10,000 Pounds*

Effective date: August 14, 1974. Since this part consists of standards for State inspection programs and does not directly impose require-

ments on any person, it is determined for good cause shown that an effective date earlier than 180 days after publication of the final rule is in the public interest.

(Secs. 103, 108, 119, Public Law 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1397, 1407; delegation of authority at 49 CFR 1.51.)

Issued on July 9, 1974.

James B. Gregory
Administrator

39 F.R. 26026
July 16, 1974

In response, this section is worded to read "Vehicles should be equipped with tires on the same axle that are matched in construction and size designation, and dual tires shall be matched for overall diameter within one-half inch."

In consideration of the foregoing, 49 CFR Part 570, Vehicle In Use Inspection Standards, is amended by denoting the existing sections 570.1 through 570.10 as Subpart A, *Vehicles with GVWR of 10,000 Pounds or Less*, and by adding a new Subpart B, *Vehicles with GVWR of More Than 10,000 Pounds*

Effective date: August 14, 1974. Since this part consists of standards for State inspection programs and does not directly impose require-

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Issued on July 9, 1974.

James B. Gregory
Administrator

39 F.R. 26026
July 16, 1974

PREAMBLE TO AMENDMENT TO PART 570—VEHICLE IN USE INSPECTION STANDARDS

(Docket No. 73-9; Notice 8)

This notice amends Part 570, Subpart B, Vehicle in Use Inspection Standards, Motor Vehicles with a GVWR of More Than 10,000 Pounds, in Title 49, Code of Federal Regulations, by making it clear that the standard does not apply to mobile structure trailers.

On July 16, 1974, NHTSA promulgated Subpart B to Part 570 which consisted of vehicle in use standards for motor vehicles with a GVWR of more than 10,000 pounds (39 F.R. 26026). In response to the notice of proposed rulemaking which preceded it (38 F.R. 28077), the Mobile Homes Manufacturers Association (MHMA) commented that their data indicated that the average mobile home is moved once every 40 months or about 2.3 times during its life, that it spends less than 12 hours on the public roads during its 18 to 20 year life span, and that it spends 0.055% of its useful life on the highway. NHTSA concluded, therefore, that mobile structure trailers should not fall within the ambit of the standard at this time.

By letter of July 19, 1974, the Mobile Homes Manufacturers Association (MHMA) pointed out that while motor homes and recreational vehicles were specifically made subject to the standard, no reference was made to mobile structure trailers except to reiterate MHMA's comments to the proposed rule. To clarify this ambiguity and the agency's intent, § 510.53 is hereby amended

Effective date: August 13, 1974. Since this amendment does not impose requirements on any person and is meant to clarify a preceding rule, it is found for good cause shown that an immediate effective date is in the public interest.

(Secs. 103, 108, 119, Public Law 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1397, 1407; delegation of authority at 49 CFR 1.51.)

Issued on August 7, 1974.

James B. Gregory
Administrator

**39 F.R. 28980
August 13, 1974**

PREAMBLE TO AMENDMENT TO PART 570—VEHICLE IN USE INSPECTION STANDARDS

(Docket No. 73-9; Notice 8)

This notice amends Part 570, Subpart B, Vehicle in Use Inspection Standards, Motor Vehicles with a GVWR of More Than 10,000 Pounds, in Title 49, Code of Federal Regulations, by making it clear that the standard does not apply to mobile structure trailers.

On July 16, 1974, NHTSA promulgated Subpart B to Part 570 which consisted of vehicle in use standards for motor vehicles with a GVWR of more than 10,000 pounds (39 F.R. 26026). In response to the notice of proposed rulemaking which preceded it (38 F.R. 28077), the Mobile Homes Manufacturers Association (MHMA) commented that their data indicated that the average mobile home is moved once every 40 months or about 2.3 times during its life, that it spends less than 12 hours on the public roads during its 18 to 20 year life span, and that it spends 0.055% of its useful life on the highway. NHTSA concluded, therefore, that mobile structure trailers should not fall within the ambit of the standard at this time.

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Effective date: August 13, 1974. Since this amendment does not impose requirements on any person and is meant to clarify a preceding rule, it is found for good cause shown that an immediate effective date is in the public interest.

(Secs. 103, 108, 119, Public Law 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1397, 1407; delegation of authority at 49 CFR 1.51.)

Issued on August 7, 1974.

James B. Gregory
Administrator

**39 F.R. 28980
August 13, 1974**

PREAMBLE TO AMENDMENT TO PART 570—VEHICLE IN USE INSPECTION STANDARDS

(Docket No. 73-9; Notice 9)

This notice responds to petitions for reconsideration of Vehicle in Use Inspection Standards for vehicles with a GVWR of more than 10,000 pounds.

NHTSA issued on July 16, 1974, the vehicle in use inspection standards to be implemented by the States for vehicles with a GVWR of more than 10,000 pounds (39 F.R. 26026). Subsequently, petitions for reconsideration were received from Ford Motor Company (Ford), General Motors Corporation (GM), the Motor Vehicle Manufacturers Association (MVMA), the Midland-Ross Corporation (Midland) and the Bendix-Westinghouse Corporation (Bendix). The NHTSA response to matters raised in these petitions will be given by subject grouping.

Brake Pedal Reserve

Ford has called the attention of NHTSA to a typographical error in the formula shown in subparagraph 570.55(c)(1) and used for computing the brake pedal reserve. Instead of the relationship $\frac{A-B}{A \times 100}$, the formula should be shown as $\frac{A-B}{A} \times 100$. The standard will be corrected accordingly.

Midland petitioned to revise the wording in paragraph 570.55(c) to require vehicles with modified vehicle brake systems, such as with an additional tag axle utilizing existing hydraulic brake fluid capacity, to meet the requirements of the brake pedal reserve test. Currently, this test is waived for all vehicles with brake systems designed to operate with greater than 80 percent pedal travel, whether through original design or modification. Since it was NHTSA's original intent that the waiver apply only when the original manufacturer's design criteria established pedal travel at greater than 80%, this

petition is granted, and the second sentence of paragraph 570.55(c) is amended to read:

"The brake pedal reserve test is not required for vehicles with brake systems designed by the original vehicle manufacturer to operate with greater than 80 percent pedal travel."

Air Brake System Integrity

Ford petitioned to expand Table 1 (Air brake system pressure build-up time) to include vehicles equipped with reservoirs of smaller capacities and varying designs, such as vehicles that use wedge brakes and the newly-developed compact brake chambers. Further, GM recommended that the values in Table 1 representing total reservoir volume be separated by 1 cubic inch to avoid column overlapping and resultant errors in utilizing the tables. The NHTSA concurs with these suggestions, and Table 1 is expanded to include requirements for 9-inch and 12-inch brake chambers and the columnar reservoir volume range values are separated by 1 cubic inch.

GM questioned the chamber volumes used in Table 1 as "not reflecting a substantial portion of industry usage." This question was also discussed by Midland-Ross, which submitted chamber area volume figures ranging from 16 inches to 36 inches. Likewise, Bendix submitted volume figures which were consistent with those submitted by Midland-Ross. The Midland-Ross petition also suggested that to be fair to all manufacturers, the reservoir build-up times as shown in Table 1 should be increased by a factor of 20 percent to compensate for normal compressor wear and deterioration. NHTSA concurs in these views, and Table 1 is amended to utilize composite volume figures deemed representative of industry practice for the representative brake chambers as shown in Table 2 below:

TABLE 2.—Chamber Volumes for Representative Brake Chambers

Chamber Size (Inches)	Volume (Cubic Inches)
9	18
12	25
16	43
20	51
24	66
30	88
36	125

Further, the following formula is established to compute the time in seconds:

$$\text{Time (Seconds)} = \frac{\text{Actual Reservoir Capacity} \times 25 \times 1.20}{\text{Required Reservoir Capacity}}$$

Bendix petitioned for the use of only a single maximum time figure of 30 seconds for an increase in the air pressure from 85 to 100 psi in the reservoirs with the engine running at the vehicle manufacturer's maximum recommended number of revolutions per minute. Although this requirement would simplify Table 1, it would not cover all of the combinations of brake chambers and reservoirs used in the trucking industry. NHTSA therefore concludes that Table 1 is necessary, and Bendix's petition is accordingly denied.

MVMA in its petition pointed out the problems involved in requiring the inspector to identify the number and size of brake chambers and the number and size of the reservoirs before he could use Table 1. In the judgment of this agency, it is not an unreasonable burden on the truck owner or operator to provide this readily-available information to an inspector at the time of inspection. MVMA's petition is therefore denied.

Midland petitioned to revise paragraph 570.57 (a)(1) to assure conformity of test conditions between FMVSS 121 and the air brake system pressure build-up test of Table 1. This request is considered valid, and paragraph 570.57(a)(1) is revised to read: "The air brake system compressor shall increase the air pressure in the

truck or truck tractor reservoir(s) from 85 to 100 psi in not more than the time specified in Table 1, with the engine running at the vehicle manufacturer's maximum recommended number of revolutions per minute."

Ford petitioned for the elimination of 570.61(b), Shock absorber condition, contending that shock absorbers do not affect the safety of all large motor vehicles, are offered only to improve operator comfort and have only a minimal effect on vehicle stability. Although the relationship between comfort and control may be hard to define, NHTSA concludes that the operator's response to varying loads, weather conditions, and road conditions is affected by the condition of the shock absorbers on the motor vehicle being driven. Further, results of two test programs carried out by NHTSA indicate that shock absorber degradation does have an effect on the handling characteristics of motor vehicles. Therefore, based on currently available data, NHTSA concludes that the shock absorbers are a contributing factor to safe motor vehicle operations, and Ford's petition is denied.

In consideration of the foregoing, 49 CFR Part 570, Subpart B, Motor Vehicles With a GVWR of More Than 10,000 Pounds, is amended as follows:

Effective date: February 4, 1975. Because the amendments correct errors and modify inspection procedures, but create no additional burden, it is found for good cause shown that they should be effective immediately on publication.

(Secs. 103, 108, 119, Pub. L. 84-563, 80 Stat. 718; 15 U.S.C. 1392, 1397, 1401; delegation of authority at 49 CFR 1.51)

Issued on January 24, 1975.

Noel C. Bufo
Acting Administrator

40 F.R. 5159
February 4, 1975

PREAMBLE TO AMENDMENT TO PART 570—VEHICLE IN USE INSPECTION STANDARDS

(Docket No. 73-9; Notice 9)

This notice responds to petitions for reconsideration of Vehicle in Use Inspection Standards for vehicles with a GVWR of more than 10,000 pounds.

NHTSA issued on July 16, 1974, the vehicle in use inspection standards to be implemented by the States for vehicles with a GVWR of more than 10,000 pounds (39 F.R. 26026). Subsequently, petitions for reconsideration were received from Ford Motor Company (Ford), General Motors Corporation (GM), the Motor Vehicle Manufacturers Association (MVMA), the Midland-Ross Corporation (Midland) and the Bendix-Westinghouse Corporation (Bendix). The NHTSA response to matters raised in these petitions will be given by subject grouping.

Brake Pedal Reserve

Ford has called the attention of NHTSA to a typographical error in the formula shown in subparagraph 570.55(c)(1) and used for computing the brake pedal reserve. Instead of the relationship $\frac{A-B}{A \times 100}$, the formula should be shown as $\frac{A-B}{A} \times 100$. The standard will be corrected accordingly.

Midland petitioned to revise the wording in paragraph 570.55(c) to require vehicles with modified vehicle brake systems, such as with an additional tag axle utilizing existing hydraulic brake fluid capacity, to meet the requirements of the brake pedal reserve test. Currently, this test is waived for all vehicles with brake systems designed to operate with greater than 80 percent pedal travel, whether through original design or modification. Since it was NHTSA's original intent that the waiver apply only when the original manufacturer's design criteria established pedal travel at greater than 80%, this

petition is granted, and the second sentence of paragraph 570.55(c) is amended to read:

"The brake pedal reserve test is not required for vehicles with brake systems designed by the original vehicle manufacturer to operate with greater than 80 percent pedal travel."

Air Brake System Integrity

Ford petitioned to expand Table 1 (Air brake system pressure build-up time) to include vehicles equipped with reservoirs of smaller capacities and varying designs, such as vehicles that use wedge brakes and the newly-developed compact brake chambers. Further, GM recommended that the values in Table 1 representing total reservoir volume be separated by 1 cubic inch to avoid column overlapping and resultant errors in utilizing the tables. The NHTSA concurs with these suggestions, and Table 1 is expanded to include requirements for 9-inch and 12-inch brake chambers and the columnar reservoir volume range values are separated by 1 cubic inch.

GM questioned the chamber volumes used in Table 1 as "not reflecting a substantial portion of industry usage." This question was also discussed by Midland-Ross, which submitted chamber area volume figures ranging from 16 inches to 36 inches. Likewise, Bendix submitted volume figures which were consistent with those submitted by Midland-Ross. The Midland-Ross petition also suggested that to be fair to all manufacturers, the reservoir build-up times as shown in Table 1 should be increased by a factor of 20 percent to compensate for normal compressor wear and deterioration. NHTSA concurs in these views, and Table 1 is amended to utilize composite volume figures deemed representative of industry practice for the representative brake chambers as shown in Table 2 below:

TABLE 2.—Chamber Volumes for Representative Brake Chambers

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Bendix petitioned for the use of only a single maximum time figure of 30 seconds for an increase in the air pressure from 85 to 100 psi in the reservoirs with the engine running at the vehicle manufacturer's maximum recommended number of revolutions per minute. Although this requirement would simplify Table 1, it would not cover all of the combinations of brake chambers and reservoirs used in the trucking industry. NHTSA therefore concludes that Table 1 is necessary, and Bendix's petition is accordingly denied.

MVMA in its petition pointed out the problems involved in requiring the inspector to identify the number and size of brake chambers and the number and size of the reservoirs before he could use Table 1. In the judgment of this agency, it is not an unreasonable burden on the truck owner or operator to provide this readily-available information to an inspector at the time of inspection. MVMA's petition is therefore denied.

Midland petitioned to revise paragraph 570.57 (a)(1) to assure conformity of test conditions between FMVSS 121 and the air brake system pressure build-up test of Table 1. This request is considered valid, and paragraph 570.57(a)(1) is revised to read: "The air brake system compressor shall increase the air pressure in the

truck or truck tractor reservoir(s) from 85 to 100 psi in not more than the time specified in Table 1, with the engine running at the vehicle manufacturer's maximum recommended number of revolutions per minute."

Ford petitioned for the elimination of 570.61(b), Shock absorber condition, contending that shock absorbers do not affect the safety of all large motor vehicles, are offered only to improve operator comfort and have only a minimal effect on vehicle stability. Although the relationship between comfort and control may be hard to define, NHTSA concludes that the operator's response to varying loads, weather conditions, and road conditions is affected by the condition of the shock absorbers on the motor vehicle being driven. Further, results of two test programs carried out by NHTSA indicate that shock absorber degradation does have an effect on the handling characteristics of motor vehicles. Therefore, based on currently available data, NHTSA concludes that the shock absorbers are a contributing factor to safe motor vehicle operations, and Ford's petition is denied.

In consideration of the foregoing, 49 CFR Part 570, Subpart B, Motor Vehicles With a GVWR of More Than 10,000 Pounds, is amended as follows:

Effective date: February 4, 1975. Because the amendments correct errors and modify inspection procedures, but create no additional burden, it is found for good cause shown that they should be effective immediately on publication.

(Secs. 103, 108, 119, Pub. L. 84-563, 80 Stat. 718; 15 U.S.C. 1392, 1397, 1401; delegation of authority at 49 CFR 1.51)

Issued on January 24, 1975.

Noel C. Bufo
Acting Administrator

40 F.R. 5159
February 4, 1975

PREAMBLE TO AMENDMENT TO PART 570—VEHICLE IN USE INSPECTION STANDARDS

(Docket No. 73-9; Notice 10)

This notice amends 49 CFR Part 570, Subpart B, Vehicle in Use Inspection Standards for Vehicles With GVWR of More Than 10,000 Pounds, and responds to a petition to amend 49 CFR Part 570, Subpart A, Vehicle in Use Inspection Standards for Vehicles With GVWR of 10,000 Pounds or Less.

On December 17, 1974, the Illinois Department of Transportation on behalf of the American Association of Motor Vehicle Administrators petitioned the National Highway Traffic Safety Administration (NHTSA) to revise the toe-in alignment tolerances found in § 570.7(d) of the Vehicle in Use Inspection Standards (49 CFR 570.7(d)). In support of its petition, Illinois forwarded a report written by the Amerco Technical Center, a wholly-owned subsidiary of the firm which also owns the U-Haul rental system and Kar-Go manufacturing service, and vehicle repair centers. The report recommended that the Vehicle in Use Inspection Standards should be amended to establish maximum toe-in readings based on vehicle type rather than vehicle model and manufacturer.

Section 570.7(d), Steering systems alignment, requires that toe-in and toe-out measurements for motor vehicles with a GVWR of 10,000 pounds or less shall not be greater than 1.5 times the values listed in the vehicle manufacturer's service specifications for alignment settings. This tolerance was established to allow for the degradation that occurs in the vehicle alignment system due to wear, while maintaining a reasonable safety standard for wheel alignment.

Toe-in settings are established by and are available through vehicle manufacturers for the specific vehicle under consideration. For ease of usage, these specifications have also been summarized in chart form by manufacturers of test

and alignment equipment, and are readily available to inspection stations, service stations, wheel alignment centers, and other businesses or agencies that perform toe-in inspection or wheel alignment adjustment services. Applying a factor of 1.5 times the manufacturer's toe-in specifications is relatively simple and should not lead to confusion on the part of persons performing vehicle inspections or adjustment services.

The NHTSA concludes that the recommendation of Amerco to establish one specification for all American made passenger cars (1960-1974), one specification for all light duty trucks under 10,000 pounds GVWR (1962-1974), and one specification for the majority of all foreign made vehicles would be unreasonable in light of the wide variations in toe-in specifications for these vehicles. Each vehicle manufacturer tailors the wheel alignment specifications to obtain optimum vehicle handling characteristics. Although standardization in the area of toe-in alignment tolerances might be desirable, the wide variance of specific toe-in settings required for the different makes, models, and years of manufacture of vehicles covered under this section precludes standardization by regulatory fiat. Therefore, the petition of the Illinois Department of Transportation is denied.

On February 4, 1975, amendments to Part 570, Subpart B, Vehicle in Use Inspection Standards for Vehicles With GVWR of More Than 10,000 Pounds, were published in the Federal Register (40 F.R. 5159). Requests for clarification, the correction of clerical errors and petitions for reconsideration were received from Midland-Ross Corporation (Midland), Bendix Corporation (Bendix), American Trucking Association (ATA) and Mack Truck Co. (Mack).

Petitions for reconsideration of § 570.57, *Air brake system and air-over-hydraulic brake subsystem*, were received from ATA, Bendix, Mack, and Midland-Ross. The petitioners were concerned with the air brake system pressure build-up time requirements and the associated inspection procedures.

The ATA petition pointed out the problems involved with inspector identification of the number and type of brake chambers and the size of the air reservoir used with existing air brake systems on certain vehicles. It suggested that it may be difficult for an inspector to obtain the required reference information prior to his being able to use Table 1, "Air Brake System Pressure Build-Up Time." Placarding truck units with this information would be difficult, inasmuch as there are no existing standards relative to the placement of or requirements for placards. Retrofitting older vehicles with placards is equally difficult. Combination vehicles would pose additional problems because a tractor manufacturer could not anticipate the type of trailer that might be coupled to his tractor, thus making it difficult to label it with the information necessary to utilize Table 1 and Table 2.

Bendix and Mack petitioned for clarification of the values used in the calculation of Table 2, "Chamber Volumes for Representative Brake Chambers," as well as the use of the values from Table 2 in calculating the build-up time values in Table 1. The petitioners were concerned with the values used because the chamber volumes utilized in Table 2 were developed for use with air reservoir systems using an 8:1 ratio of air reservoir volume to brake chamber volume, rather than the present 12:1 ratio required by Standard No. 121 for vehicles manufactured on or after March 1, 1975. The petitioners were also concerned with the problems in inspection of brake systems, caused by the fact that the majority of trucks on the road were built prior

to March 1, 1975, and would not have adequate reservoir capacity in relation to brake chamber volume.

The ATA suggested adoption of the industry accepted procedure of combining the pressure drop test with the pressure recovery test, thereby eliminating all questions concerning reservoir size, compressor capacity, and the number and size of brake chambers. By doing this, the inspection procedure will be greatly simplified without sacrificing the effectiveness of the inspection. With the elimination of the requirement for the determination of brake chamber volumes and reservoir capacities, the necessity for Table 1 and Table 2 no longer exists in the determination of air brake system build-up time.

For the reasons discussed, the petitions from ATA, Bendix, Mack, and Midland-Ross are hereby granted. In addition, other subparagraphs of § 570.57(a) are reworded to clarify their meaning.

In consideration of the foregoing, 49 CFR Part 570, Subpart B, Vehicle in Use Inspection Standards for Vehicles With GVWR of More Than 10,000 Pounds, is amended

Effective date: April 1, 1976. Because the amendments create no additional burden on any person, it is found for good cause shown that an immediate effective date is in the public interest.

(Sec. 103, 108, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1397, 1407); delegation of authority at 49 CFR 1.50.)

Issued on March 29, 1976.

James B. Gregory
Administrator

41 F.R. 13923
April 1, 1976

PREAMBLE TO AMENDMENT TO PART 570—VEHICLE IN USE INSPECTION STANDARDS

(Docket No. 73-9; Notice 10)

This notice amends 49 CFR Part 570, Subpart B, Vehicle in Use Inspection Standards for Vehicles With GVWR of More Than 10,000 Pounds, and responds to a petition to amend 49 CFR Part 570, Subpart A, Vehicle in Use Inspection Standards for Vehicles With GVWR of 10,000 Pounds or Less.

On December 17, 1974, the Illinois Department of Transportation on behalf of the American Association of Motor Vehicle Administrators petitioned the National Highway Traffic Safety Administration (NHTSA) to revise the toe-in alignment tolerances found in § 570.7(d) of the Vehicle in Use Inspection Standards (49 CFR 570.7(d)). In support of its petition, Illinois forwarded a report written by the Amerco Technical Center, a wholly-owned subsidiary of the firm which also owns the U-Haul rental system and Kar-Go manufacturing service, and vehicle repair centers. The report recommended that the Vehicle in Use Inspection Standards should be amended to establish maximum toe-in readings based on vehicle type rather than vehicle model and manufacturer.

Section 570.7(d), Steering systems alignment, requires that toe-in and toe-out measurements for motor vehicles with a GVWR of 10,000 pounds or less shall not be greater than 1.5 times the values listed in the vehicle manufacturer's service specifications for alignment settings. This tolerance was established to allow for the degradation that occurs in the vehicle alignment system due to wear, while maintaining a reasonable safety standard for wheel alignment.

Toe-in settings are established by and are available through vehicle manufacturers for the specific vehicle under consideration. For ease of usage, these specifications have also been summarized in chart form by manufacturers of test

and alignment equipment, and are readily available to inspection stations, service stations, wheel alignment centers, and other businesses or agencies that perform toe-in inspection or wheel alignment adjustment services. Applying a factor of 1.5 times the manufacturer's toe-in specifications is relatively simple and should not lead to confusion on the part of persons performing vehicle inspections or adjustment services.

The NHTSA concludes that the recommendation of Amerco to establish one specification for all American made passenger cars (1960-1974), one specification for all light duty trucks under 10,000 pounds GVWR (1962-1974), and one specification for the majority of all foreign made vehicles would be unreasonable in light of the wide variations in toe-in specifications for these vehicles. Each vehicle manufacturer tailors the wheel alignment specifications to obtain optimum vehicle handling characteristics. Although standardization in the area of toe-in alignment tolerances might be desirable, the wide variance of specific toe-in settings required for the different makes, models, and years of manufacture of vehicles covered under this section precludes standardization by regulatory fiat. Therefore, the petition of the Illinois Department of Transportation is denied.

On February 4, 1975, amendments to Part 570, Subpart B, Vehicle in Use Inspection Standards for Vehicles With GVWR of More Than 10,000 Pounds, were published in the Federal Register (40 F.R. 5159). Requests for clarification, the correction of clerical errors and petitions for reconsideration were received from Midland-Ross Corporation (Midland), Bendix Corporation (Bendix), American Trucking Association (ATA) and Mack Truck Co. (Mack).

Petitions for reconsideration of § 570.57, *Air brake system and air-over-hydraulic brake subsystem*, were received from ATA, Bendix, Mack, and Midland-Ross. The petitioners were concerned with the air brake system pressure build-up time requirements and the associated inspection procedures.

The ATA petition pointed out the problems involved with inspector identification of the number and type of brake chambers and the size of the air reservoir used with existing air brake systems on certain vehicles. It suggested that it may be difficult for an inspector to obtain the required reference information prior to his being able to use Table 1, "Air Brake System Pressure Build-Up Time." Placarding truck units with this information would be difficult, inasmuch as there are no existing standards relative to the placement of or requirements for placards. Retrofitting older vehicles with placards is equally difficult. Combination vehicles would pose additional problems because a tractor manufacturer could not anticipate the type of trailer that might be coupled to his tractor, thus making it difficult to label it with the information necessary to utilize Table 1 and Table 2.

Bendix and Mack petitioned for clarification of the values used in the calculation of Table 2, "Chamber Volumes for Representative Brake Chambers," as well as the use of the values from Table 2 in calculating the build-up time values in Table 1. The petitioners were concerned with the values used because the chamber volumes utilized in Table 2 were developed for use with air reservoir systems using an 8:1 ratio of air reservoir volume to brake chamber volume, rather than the present 12:1 ratio required by Standard No. 121 for vehicles manufactured on or after March 1, 1975. The petitioners were also concerned with the problems in inspection of brake systems, caused by the fact that the majority of trucks on the road were built prior

to March 1, 1975, and would not have adequate reservoir capacity in relation to brake chamber volume.

The ATA suggested adoption of the industry accepted procedure of combining the pressure drop test with the pressure recovery test, thereby eliminating all questions concerning reservoir size, compressor capacity, and the number and size of brake chambers. By doing this, the inspection procedure will be greatly simplified without sacrificing the effectiveness of the inspection. With the elimination of the requirement for the determination of brake chamber volumes and reservoir capacities, the necessity for Table 1 and Table 2 no longer exists in the determination of air brake system build-up time.

For the reasons discussed, the petitions from ATA, Bendix, Mack, and Midland-Ross are hereby granted. In addition, other subparagraphs of § 570.57(a) are reworded to clarify their meaning.

In consideration of the foregoing, 49 CFR Part 570, Subpart B, Vehicle in Use Inspection Standards for Vehicles With GVWR of More Than 10,000 Pounds, is amended

Effective date: April 1, 1976. Because the amendments create no additional burden on any person, it is found for good cause shown that an immediate effective date is in the public interest.

(Sec. 103, 108, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1397, 1407); delegation of authority at 49 CFR 1.50.)

Issued on March 29, 1976.

James B. Gregory
Administrator

41 F.R. 13923
April 1, 1976

PART 570—VEHICLE IN USE INSPECTION STANDARDS

Subpart A—Vehicles With GVWR of 10,000 Pounds or Less

- 570.1 Scope
- 570.2 Purpose
- 570.3 Applicability
- 570.4 Definitions
- 570.5 Service brake system
- 570.6 Brake power unit
- 570.7 Steering systems
- 570.8 Suspension systems
- 570.9 Tires
- 570.10 Wheel assemblies

AUTHORITY: Secs. 103, 108, 119, Public Law 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1397, 1407; delegation of authority at 49 CFR 1.51.

§ 570.1 Scope. This part specifies standards and procedures for inspection of hydraulic service brake systems, steering and suspension systems, and tire and wheel assemblies of motor vehicles in use.

§ 570.2 Purpose. The purpose of this part is to establish criteria for the inspection of motor vehicles by State inspection systems, in order to reduce death and injuries attributable to failure or inadequate performance of motor vehicle systems.

§ 570.3 Applicability. This part does not in itself impose requirements on any person. It is intended to be implemented by States through the highway safety program standards issued under the Highway Safety Act (23 U.S.C. 402) with respect to inspection of motor vehicles with gross vehicle weight rating of 10,000 pounds or less, except motorcycles or trailers.

§ 570.4 Definitions. Unless otherwise indicated, all terms used in this part that are defined

in 49 CFR Part 571, Motor Vehicle Safety Standards, are used as defined in that part.

§ 570.5 Service brake system. Unless otherwise noted, the force to be applied during inspection procedures to power-assisted and full-power brake systems is 25 lb., and to all other systems, 50 lb.

(a) *Failure indicator.* The brake system failure indicator lamp, if part of a vehicle's original equipment, shall be operable. (This lamp is required by Federal Motor Vehicle Safety Standard No. 105, 49 CFR 571.105, on every new passenger car manufactured on or after January 1, 1968, and on other types of motor vehicles manufactured on or after September 1, 1975.)

Inspection procedure. Apply the parking brake and turn the ignition to start, or verify lamp operation by other means indicated by the vehicle manufacturer that the brake system failure indicator lamp is operable.

(b) *Brake system integrity.* The brake system shall demonstrate integrity as indicated by no perceptible decrease in pedal height under a 125 pound force applied to the brake pedal or by no illumination of the brake system failure indicator lamp. The brake system shall withstand the application of force to the pedal without failure of any line or other part.

Inspection procedure. With the engine running on vehicles equipped with power brake systems, and the ignition turned to "on" in other vehicles, apply a force of 125 pounds to the brake pedal and hold for 10 seconds. Note any decrease in pedal height, and whether the lamp illuminates.

(c) *Brake pedal reserve.* When the brake pedal is fully depressed, the distance that the pedal has traveled from its free position shall

be not greater than 80 percent of the total distance from its free position to the floorboard or other object that restricts pedal travel.

Inspection procedure. Measure the distance (A) from the free pedal position to the floorboard or other object that restricts brake pedal travel. Depress the brake pedal, and with the force applied measure the distance (B) from the depressed pedal position to the floorboard or other object that restricts pedal travel. Determine the percentage as $\frac{A-B}{A} \times 100$. The engine must

be operating when power-assisted brakes are checked. The pedal reserve check is not required for vehicles equipped with full-power (central hydraulic) brake systems, or to vehicles with brake systems designed to operate with greater than 80 percent pedal travel.

(d) *Service brake performance.* Compliance with one of the following performance criteria will satisfy the requirements of this section. Verify that tire inflation pressure is within the limits recommended by vehicle manufacturer before conducting either of the following tests.

(1) *Roller-type or drive-on platform tests.* The force applied by the brake on a front wheel or a rear wheel shall not differ by more than 20 percent from the force applied by the brake on the other front wheel or the other rear wheel respectively.

Inspection procedure. The vehicle shall be tested on a drive-on platform, or a roller-type brake analyzer with the capability of measuring equalization. The test shall be conducted in accordance with the test equipment manufacturer's specifications. Note the left to right brake force variance.

(2) *Road test.* The service brake system shall stop the vehicle in a distance of 25 feet or less from a speed of 20 miles per hour without leaving a 12-foot-wide lane.

Inspection procedure. The road test shall be conducted on a level (not to exceed plus or minus one percent grade) dry, smooth, hard-surfaced road that is free from loose material, oil or grease. The service brakes shall be applied at a vehicle speed of 20 miles per hour and the vehicle shall be brought to a stop as specified. Measure the distance required to stop.

(e) *Brake hoses and Assemblies.* Brake hoses shall not be mounted so as to contact the vehicle body or chassis. Hoses shall not be cracked, chafed, or flattened. Protective devices, such as "rub rings," shall not be considered part of the hose or tubing.

Inspection procedure. Examine visually, inspecting front brake hoses through all wheel positions from full left to full right for conditions indicated.

[NOTE: to inspect for (f), (g), and (h) below, remove at a minimum one front wheel and one rear wheel.]

(f) *Disc and drum condition.* If the drum is embossed with a maximum safe diameter dimension or the rotor is embossed with a minimum safety thickness dimension, the drum or disc shall be within the appropriate specifications. These dimensions will be found on motor vehicles manufactured since January 1, 1971, and may be found on vehicles manufactured for several years prior to that time. If the drums and discs are not embossed the drums and discs shall be within the manufacturer's specifications.

Inspection procedure. Examine visually for condition indicated, measuring as necessary.

(g) *Friction materials.* On each brake the thickness of the lining or pad shall not be less than one thirty-second of an inch over the rivet heads, or the brake shoe on bonded linings or pads. Brake linings and pads shall not have cracks or breaks that extend to rivet holes except minor cracks that do not impair attachment. Drum brake linings shall be securely attached to brake shoes. Disc brake pads shall be securely attached to shoe plates.

Inspection procedure. Examine visually for conditions indicated, and measure height of rubbing surface of lining over rivet heads. Measure bonded lining thickness over shoe surface at the thinnest point on the lining or pad.

(h) *Structural and mechanical parts.* Backing plates and caliper assemblies shall not be deformed or cracked. System parts shall not be broken, misaligned, missing, binding, or show evidence of severe wear. Automatic adjusters and other parts shall be assembled and installed correctly.

PART 570—VEHICLE IN USE INSPECTION STANDARDS

Subpart A—Vehicles With GVWR of 10,000 Pounds or Less

570.1 Scope

570.2 Purpose

570.3 Applicability

570.4 Definitions

570.5 Service brake system

570.6 Brake power unit

570.7 Steering systems

570.8 Suspension systems

570.9 Tires

570.10 Wheel assemblies

AUTHORITY: Secs. 103, 108, 119, Public Law 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1397, 1407; delegation of authority at 49 CFR 1.51.

§ 570.1 Scope. This part specifies standards and procedures for inspection of hydraulic service brake systems, steering and suspension systems, and tire and wheel assemblies of motor vehicles in use.

§ 570.2 Purpose. The purpose of this part is to establish criteria for the inspection of motor vehicles by State inspection systems, in order to reduce death and injuries attributable to failure or inadequate performance of motor vehicle systems.

§ 570.3 Applicability. This part does not in itself impose requirements on any person. It is intended to be implemented by States through the highway safety program standards issued under the Highway Safety Act (23 U.S.C. 402) with respect to inspection of motor vehicles with gross vehicle weight rating of 10,000 pounds or less, except motorcycles or trailers.

§ 570.4 Definitions. Unless otherwise indicated, all terms used in this part that are defined

in 49 CFR Part 571, Motor Vehicle Safety Standards, are used as defined in that part.

§ 570.5 Service brake system. Unless otherwise noted, the force to be applied during inspection procedures to power-assisted and full-power brake systems is 25 lb., and to all other systems, 50 lb.

(a) *Failure indicator.* The brake system failure indicator lamp, if part of a vehicle's original equipment, shall be operable. (This lamp is required by Federal Motor Vehicle Safety Standard No. 105, 49 CFR 571.105, on every new passenger car manufactured on or after January 1, 1968, and on other types of motor vehicles manufactured on or after September 1, 1975.)

Inspection procedure. Apply the parking brake and turn the ignition to start, or verify lamp operation by other means indicated by the vehicle manufacturer that the brake system failure indicator lamp is operable.

(b) *Brake system integrity.* The brake system shall demonstrate integrity as indicated by no perceptible decrease in pedal height under a 125 pound force applied to the brake pedal or by no illumination of the brake system failure indicator lamp. The brake system shall withstand the application of force to the pedal without failure of any line or other part.

Inspection procedure. With the engine running on vehicles equipped with power brake systems, and the ignition turned to "on" in other vehicles, apply a force of 125 pounds to the brake pedal and hold for 10 seconds. Note any decrease in pedal height, and whether the lamp illuminates.

(c) *Brake pedal reserve.* When the brake pedal is fully depressed, the distance that the pedal has traveled from its free position shall

be not greater than 80 percent of the total distance from its free position to the floorboard or other object that restricts pedal travel.

Inspection procedure. Measure the distance (A) from the free pedal position to the floorboard or other object that restricts brake pedal travel. Depress the brake pedal, and with the force applied measure the distance (B) from the depressed pedal position to the floorboard or other object that restricts pedal travel. Determine the percentage as $\frac{A-B}{A} \times 100$. The engine must

be operating when power-assisted brakes are checked. The pedal reserve check is not required for vehicles equipped with full-power (central hydraulic) brake systems, or to vehicles with brake systems designed to operate with greater than 80 percent pedal travel.

(d) *Service brake performance.* Compliance with one of the following performance criteria will satisfy the requirements of this section. Verify that tire inflation pressure is within the limits recommended by vehicle manufacturer before conducting either of the following tests.

(1) *Roller-type or drive-on platform tests.* The force applied by the brake on a front wheel or a rear wheel shall not differ by more than 20 percent from the force applied by the brake on the other front wheel or the other rear wheel respectively.

Inspection procedure. The vehicle shall be tested on a drive-on platform, or a roller-type brake analyzer with the capability of measuring equalization. The test shall be conducted in accordance with the test equipment manufacturer's specifications. Note the left to right brake force variance.

(2) *Road test.* The service brake system shall stop the vehicle in a distance of 25 feet or less from a speed of 20 miles per hour without leaving a 12-foot-wide lane.

Inspection procedure. The road test shall be conducted on a level (not to exceed plus or minus one percent grade) dry, smooth, hard-surfaced road that is free from loose material, oil or grease. The service brakes shall be applied at a vehicle speed of 20 miles per hour and the vehicle shall be brought to a stop as specified. Measure the distance required to stop.

(e) *Brake hoses and Assemblies.* Brake hoses shall not be mounted so as to contact the vehicle body or chassis. Hoses shall not be cracked, chafed, or flattened. Protective devices, such as "rub rings," shall not be considered part of the hose or tubing.

Inspection procedure. Examine visually, inspecting front brake hoses through all wheel positions from full left to full right for conditions indicated.

[NOTE: to inspect for (f), (g), and (h) below, remove at a minimum one front wheel and one rear wheel.]

(f) *Disc and drum condition.* If the drum is embossed with a maximum safe diameter dimension or the rotor is embossed with a minimum safety thickness dimension, the drum or disc shall be within the appropriate specifications. These dimensions will be found on motor vehicles manufactured since January 1, 1971, and may be found on vehicles manufactured for several years prior to that time. If the drums and discs are not embossed the drums and discs shall be within the manufacturer's specifications.

Inspection procedure. Examine visually for condition indicated, measuring as necessary.

(g) *Friction materials.* On each brake the thickness of the lining or pad shall not be less than one thirty-second of an inch over the rivet heads, or the brake shoe on bonded linings or pads. Brake linings and pads shall not have cracks or breaks that extend to rivet holes except minor cracks that do not impair attachment. Drum brake linings shall be securely attached to brake shoes. Disc brake pads shall be securely attached to shoe plates.

Inspection procedure. Examine visually for conditions indicated, and measure height of rubbing surface of lining over rivet heads. Measure bonded lining thickness over shoe surface at the thinnest point on the lining or pad.

(h) *Structural and mechanical parts.* Backing plates and caliper assemblies shall not be deformed or cracked. System parts shall not be broken, misaligned, missing, binding, or show evidence of severe wear. Automatic adjusters and other parts shall be assembled and installed correctly.

Inspection procedure. Examine visually for conditions indicated.

§ 570.6 Brake power unit. Vacuum hoses shall not be collapsed, abraded, broken, improperly mounted or audibly leaking. With residual vacuum exhausted and a constant 25 pound force on the brake pedal, the pedal shall fall slightly when the engine is started, demonstrating integrity of the power assist system. This test is not applicable to vehicles equipped with full power brake system as the service brake performance test shall be considered adequate test of system performance.

Inspection procedure. With engine running, examine hose visually and aurally for conditions indicated. Stop engine and apply service brakes several times to destroy vacuum in system. Depress brake pedal with 25 pounds of force and while maintaining that force, start the engine. If brake pedal does not fall slightly under force when the engine starts, there is a malfunction in the power assist system.

§ 570.7 Steering systems.

(a) *System play.* Lash or free play in the steering system shall not exceed values shown in Table 1.

Inspection procedure. With the engine on and the wheels in the straight ahead position, turn the steering wheel in one direction until there is a perceptible movement of a front wheel. If a point on the steering wheel rim moves more than the value shown in Table 1 before perceptible return movement of the wheel under observation, there is excessive lash or free play in the steering system.

TABLE 1.—Steering System Free Play Values

Steering Wheel Diameter (In.)	Lash (In.)
16 or less	2
18	2¼
20	2½
22	2¾

(b) *Linkage play.* Free play in the steering linkage shall not exceed one-quarter of an inch.

Inspection procedure. Elevate the front end of the vehicle to load the ball joints. Insure that wheel bearings are correctly adjusted. Grasp the

front and rear of a tire and attempt to turn the tire and wheel assembly left and right. If the free movement at the front or rear tread of the tire exceeds one-quarter inch there is excessive steering linkage play.

(c) *Free turning.* Steering wheels shall turn freely through the limit of travel in both directions.

Inspection procedure. Turn the steering wheel through the limit of travel in both directions. Feel for binding or jamming in the steering gear mechanism.

(d) *Alignment.* Toe-in and toe-out measurements shall not be greater than 1.5 times the value listed in the vehicle manufacturer's service specification for alignment setting.

Inspection procedure. Verify that toe-in or toe-out is not greater than 1.5 times the values listed in the vehicle manufacturer's service specifications for alignment settings as measured by a bar-type scuff gauge or other toe-in measuring device. Values to convert toe-in readings in inches to scuff gauge readings in ft/mi side-slip for different wheel sizes are provided in Table 2. Tire diameters used in computing scuff gauge readings are based on the average maximum tire dimensions of grown tires in service for typical wheel and tire assemblies.

(e) *Power steering system.* The power steering system shall not have cracked or slipping belts, or insufficient fluid in the reservoir.

Inspection procedure. Examine fluid reservoir and pump belts for conditions indicated.

§ 570.8 Suspension systems.

(a) *Suspension condition.* Ball joint seals shall not be cut or cracked. Structural parts shall not be bent or damaged. Stabilizer bars shall be connected. Springs shall not be broken, or extended by spacers. Shock absorber mountings, shackles, and U-bolts shall be securely attached. Rubber bushings shall not be cracked, extruded out from or missing from suspension joints. Radius rods shall not be missing or damaged.

Inspection procedure. Examine front and rear end suspension parts for conditions indicated.

TABLE 2.—Toe-In Settings From Vehicle MFR's Service Specifications

Wheel Size (In)	Nominal Tire Diameter (In)	Readings in Feet Per Mile Sideslip								
		$\frac{1}{16}$ "	$\frac{1}{8}$ "	$\frac{3}{16}$ "	$\frac{1}{4}$ "	$\frac{5}{16}$ "	$\frac{3}{8}$ "	$\frac{7}{16}$ "	$\frac{1}{2}$ "	$\frac{9}{16}$ "
13	25.2	13.1	26.2	39.3	52.4	65.5	78.6	91.7	104.8	117.9
14	26.4	12.5	25.0	37.5	50.0	62.5	75.0	87.5	100.	112.5
15	28.5	11.5	23.0	34.5	46.0	57.5	69.0	80.5	92.0	103.5
16	35.6	9.3	18.6	27.9	37.2	46.5	55.8	65.1	74.4	83.7

(39 F.R. 12867—April 9, 1974. Effective: 5/9/74)

(b) *Shock absorber conditions.* There shall be no oil on the shock absorber housing attributable to leakage by the seal, and the vehicle shall not continue free rocking motion for more than two cycles.

Inspection procedure. Examine shock absorbers for oil leaking from within, then with vehicle on a level surface, push down on one end of vehicle and release. Note number of cycles of free rocking motion. Repeat procedure at other end of vehicle.

§ 570.9 Tires.

(a) *Tread depth.* The tread on each tire shall be not less than two thirty-seconds of an inch deep.

Inspection procedure. Passenger car tires have tread depth indicators that become exposed when tread depth is less than two thirty-seconds of an inch. Inspect for indicators in any two adjacent major grooves at three locations spaced approximately equally around the outside of the tire. For vehicles other than passenger cars it may be necessary to measure tread depth with a tread gauge.

(b) *Type.* Vehicle shall be equipped with tires on the same axle that are matched in tire size designation, construction, and profile.

Inspection procedure. Examine visually. A major mismatch in tire size designation, construction, and profile between tires on the same axle, or a major deviation from the size as recommended by the manufacturer (e.g. as indicated on the glove box placard on 1968 and later passenger cars) are causes for rejection.

(c) *General condition.* Tires shall be free from chunking, bumps, knots, or bulges evidencing cord, ply, or tread separation from the casing or other adjacent materials.

(d) *Damage.* Tire cords or belting materials shall not be exposed, either to the naked eye or when cuts or abrasions on the tire are probed.

Inspection procedures. Examine visually for conditions indicated, using a blunt instrument if necessary to probe cuts or abrasions.

§ 570.10 Wheel assemblies.

(a) *Wheel integrity.* A tire rim, wheel disc, or spider shall have no visible cracks, elongated bolt holes or indication of repair by welding.

Inspection procedure. Examine visually for conditions indicated.

(b) *Deformation.* The lateral and radial runout of each rim bead area shall not exceed one-eighth of an inch of total indicated runout.

Inspection procedure. Using a runout indicator gauge, and a suitable stand, measure lateral and radial runout of rim bead through one full wheel revolution and note runout in excess of one-eighth of an inch.

(c) *Mounting.* All wheel nuts and bolts shall be in place and tight.

Inspection procedure. Check wheel retention for conditions indicated.

38 F.R. 23949

September 5, 1973

Inspection procedure. Examine visually for conditions indicated.

§ 570.6 Brake power unit. Vacuum hoses shall not be collapsed, abraded, broken, improperly mounted or audibly leaking. With residual vacuum exhausted and a constant 25 pound force on the brake pedal, the pedal shall fall slightly when the engine is started, demonstrating integrity of the power assist system. This test is not applicable to vehicles equipped with full power brake system as the service brake performance test shall be considered adequate test of system performance.

Inspection procedure. With engine running, examine hose visually and aurally for conditions indicated. Stop engine and apply service brakes several times to destroy vacuum in system. Depress brake pedal with 25 pounds of force and while maintaining that force, start the engine. If brake pedal does not fall slightly under force when the engine starts, there is a malfunction in the power assist system.

§ 570.7 Steering systems.

(a) *System play.* Lash or free play in the steering system shall not exceed values shown in Table 1.

Inspection procedure. With the engine on and the wheels in the straight ahead position, turn the steering wheel in one direction until there is a perceptible movement of a front wheel. If a point on the steering wheel rim moves more than the value shown in Table 1 before perceptible return movement of the wheel under observation, there is excessive lash or free play in the steering system.

TABLE 1.—Steering System Free Play Values

Steering Wheel Diameter (In.)	Lash (In.)
16 or less	2
18	2¼
20	2½
22	2¾

(b) *Linkage play.* Free play in the steering linkage shall not exceed one-quarter of an inch.

Inspection procedure. Elevate the front end of the vehicle to load the ball joints. Insure that wheel bearings are correctly adjusted. Grasp the

front and rear of a tire and attempt to turn the tire and wheel assembly left and right. If the free movement at the front or rear tread of the tire exceeds one-quarter inch there is excessive steering linkage play.

(c) *Free turning.* Steering wheels shall turn freely through the limit of travel in both directions.

Inspection procedure. Turn the steering wheel through the limit of travel in both directions. Feel for binding or jamming in the steering gear mechanism.

(d) *Alignment.* Toe-in and toe-out measurements shall not be greater than 1.5 times the value listed in the vehicle manufacturer's service specification for alignment setting.

Inspection procedure. Verify that toe-in or toe-out is not greater than 1.5 times the values listed in the vehicle manufacturer's service specifications for alignment settings as measured by a bar-type scuff gauge or other toe-in measuring device. Values to convert toe-in readings in inches to scuff gauge readings in ft/mi side-slip for different wheel sizes are provided in Table 2. Tire diameters used in computing scuff gauge readings are based on the average maximum tire dimensions of grown tires in service for typical wheel and tire assemblies.

(e) *Power steering system.* The power steering system shall not have cracked or slipping belts, or insufficient fluid in the reservoir.

Inspection procedure. Examine fluid reservoir and pump belts for conditions indicated.

§ 570.8 Suspension systems.

(a) *Suspension condition.* Ball joint seals shall not be cut or cracked. Structural parts shall not be bent or damaged. Stabilizer bars shall be connected. Springs shall not be broken, or extended by spacers. Shock absorber mountings, shackles, and U-bolts shall be securely attached. Rubber bushings shall not be cracked, extruded out from or missing from suspension joints. Radius rods shall not be missing or damaged.

Inspection procedure. Examine front and rear end suspension parts for conditions indicated.

TABLE 2.—Toe-In Settings From Vehicle MFR's Service Specifications

Wheel Size (In)	Nominal Tire Diameter (In)	Readings in Feet Per Mile Sideslip								
		$\frac{1}{16}$ "	$\frac{1}{8}$ "	$\frac{3}{16}$ "	$\frac{1}{4}$ "	$\frac{5}{16}$ "	$\frac{3}{8}$ "	$\frac{7}{16}$ "	$\frac{1}{2}$ "	$\frac{5}{8}$ "
13	25.2	13.1	26.2	39.3	52.4	65.5	78.6	91.7	104.8	117.9
14	26.4	12.5	25.0	37.5	50.0	62.5	75.0	87.5	100.	112.5
15	28.5	11.5	23.0	34.5	46.0	57.5	69.0	80.5	92.0	103.5
16	35.6	9.3	18.6	27.9	37.2	46.5	55.8	65.1	74.4	83.7

(39 F.R. 12867—April 9, 1974. Effective: 5/9/74)

(b) *Shock absorber conditions.* There shall be no oil on the shock absorber housing attributable to leakage by the seal, and the vehicle shall not continue free rocking motion for more than two cycles.

Inspection procedure. Examine shock absorbers for oil leaking from within, then with vehicle on a level surface, push down on one end of vehicle and release. Note number of cycles of free rocking motion. Repeat procedure at other end of vehicle.

§ 570.9 Tires.

(a) *Tread depth.* The tread on each tire shall be not less than two thirty-seconds of an inch deep.

Inspection procedure. Passenger car tires have tread depth indicators that become exposed when tread depth is less than two thirty-seconds of an inch. Inspect for indicators in any two adjacent major grooves at three locations spaced approximately equally around the outside of the tire. For vehicles other than passenger cars it may be necessary to measure tread depth with a tread gauge.

(b) *Type.* Vehicle shall be equipped with tires on the same axle that are matched in tire size designation, construction, and profile.

Inspection procedure. Examine visually. A major mismatch in tire size designation, construction, and profile between tires on the same axle, or a major deviation from the size as recommended by the manufacturer (e.g. as indicated on the glove box placard on 1968 and later passenger cars) are causes for rejection.

(c) *General condition.* Tires shall be free from chunking, bumps, knots, or bulges evidencing cord, ply, or tread separation from the casing or other adjacent materials.

(d) *Damage.* Tire cords or belting materials shall not be exposed, either to the naked eye or when cuts or abrasions on the tire are probed.

Inspection procedures. Examine visually for conditions indicated, using a blunt instrument if necessary to probe cuts or abrasions.

§ 570.10 Wheel assemblies.

(a) *Wheel integrity.* A tire rim, wheel disc, or spider shall have no visible cracks, elongated bolt holes or indication of repair by welding.

Inspection procedure. Examine visually for conditions indicated.

(b) *Deformation.* The lateral and radial runout of each rim bead area shall not exceed one-eighth of an inch of total indicated runout.

Inspection procedure. Using a runout indicator gauge, and a suitable stand, measure lateral and radial runout of rim bead through one full wheel revolution and note runout in excess of one-eighth of an inch.

(c) *Mounting.* All wheel nuts and bolts shall be in place and tight.

Inspection procedure. Check wheel retention for conditions indicated.

38 F.R. 23949
September 5, 1973

Subpart B—Vehicles With GVWR of More Than 10,000 Pounds

- 570.51 Scope**
- 570.52 Purpose**
- 570.53 Applicability**
- 570.54 Definitions**
- 570.55 Hydraulic brake system**
- 570.56 Vacuum brake assist unit and vacuum brake system**
- 570.57 Air brake system and air-over-hydraulic brake subsystem**
- 570.58 Electric brake system**
- 570.59 Service brake system**
- 570.60 Steering system**
- 570.61 Suspension system**
- 570.62 Tires**
- 570.63 Wheel assemblies**

AUTHORITY: Secs. 103, 108, 119, Public Law 89-563, 80 Stat 78, 15 U.S.C. 1392, 1397, 1407; delegation of authority at 49 CFR 1.51.

§ 570.51 Scope. This part specifies standards and procedures for the inspection of brake, steering and suspension systems, and tire and wheel assemblies, of motor vehicles in use with a gross vehicle weight rating of more than 10,000 pounds.

§ 570.52 Purpose. The purpose of this part is to establish criteria for the inspection of motor vehicles through State inspection programs, in order to reduce deaths and injuries attributable to failure or inadequate performance of the motor vehicle systems covered by this part.

§ 570.53 Applicability. This part does not in itself impose requirements on any person. It is intended to be implemented by States through the highway safety program standards issued under the Highway Safety Act (23 U.S.C. 402) with respect to inspection of motor vehicles with gross vehicle weight rating greater than 10,000 pounds, except mobile structure trailers.

§ 570.54 Definitions. Unless otherwise indicated, all terms used in this part that are defined in 49 CFR Part 571, Motor Vehicle Safety Standards, are used as defined in that part.

“Air-over-hydraulic brake subsystem” means a subsystem of the air brake that uses compressed air to transmit a force from the driver control to a hydraulic brake system to actuate the service brakes.

“Electric brake system” means a system that uses electric current to actuate the service brake.

“Vacuum brake system” means a system that uses a vacuum and atmospheric pressure for transmitting a force from the driver control to the service brake, but does not include a system that uses vacuum only to assist the driver in applying muscular force to hydraulic or mechanical components.

§ 570.55 Hydraulic brake system. The following requirements apply to vehicles with hydraulic brake systems.

(a) *Brake system failure indicator.* The hydraulic brake system failure indicator lamp, if part of a vehicle's original equipment, shall be operable.

Inspection procedure. Apply the parking brake and turn the ignition to start to verify that the brake system failure indicator lamp is operable, or verify by other means recommended by the vehicle manufacturer.

(b) *Brake system integrity.* The hydraulic brake system shall demonstrate integrity as indicated by no perceptible decrease in pedal height under a 125-pound force applied to the brake pedal and by no illumination of the brake system failure indicator lamp. The brake system shall withstand the application of force to the pedal without failure of any tube, hose or other part.

Inspection procedure. With the engine running in vehicles equipped with power brake systems and the ignition turned to “on” in other vehicles, apply a force of 125 pounds to the brake pedal and hold for 10 seconds. Note any additional decrease in pedal height after the initial decrease, and whether the brake system failure indicator lamp illuminates.

(c) *Brake pedal reserve.* When the brake pedal is depressed with a force of 50 pounds, the distance that the pedal has traveled from its free position shall be not greater than 80 percent of the total distance from its free position to the

floorboard or other object that restricts pedal travel. The brake pedal reserve test is not required for vehicles with brake systems designed by the original vehicle manufacturer to operate with greater than 80 percent pedal travel.

Inspection procedure. Measure the distance (A) from the free pedal position to the floorboard or other object that restricts brake pedal travel. Depress the brake pedal, and with the force applied measure the distance (B) from the depressed pedal position to the floorboard or other object that restricts pedal travel. Determine the pedal travel percentage as $\frac{A-B}{A} \times 100$.

The engine must be operating when power-assisted brakes are checked.

(d) *Brake hoses, master cylinder, tubes and tube assemblies.* Hydraulic brake hoses shall not be mounted so as to contact the vehicle body or chassis. Hoses shall not be cracked, chafed, or flattened. Brake tubes shall not be flattened or restricted. Brake hoses and tubes shall be attached or supported to prevent damage by vibration or abrasion. Master cylinder shall not show signs of leakage. Hose or tube protective rings or devices shall not be considered part of the hose or tubing.

Inspection procedure. Examine visually brake master cylinder, hoses and tubes, including front brake hoses, through all wheel positions from full left turn to full right turn for conditions indicated.

§ 570.56 Vacuum brake assist unit and vacuum brake system. The following requirements apply to vehicles with vacuum brake assist units and vacuum brake systems.

(a) *Vacuum brake assist unit integrity.* The vacuum brake assist unit shall demonstrate integrity as indicated by a decrease in pedal height when the engine is started and a constant 50-pound force is maintained on the pedal.

Inspection procedure. Stop the engine and apply service brake several times to destroy vacuum in system. Depress the brake pedal with 50 pounds of force and while maintaining that force, start the engine. If the brake pedal does not move slightly under force when the engine starts, there is a malfunction in the power assist unit.

(b) *Low-vacuum indicator.* If the vehicle has a low-vacuum indicator, the indicator activation level shall not be less than 8 inches of mercury.

Inspection procedure. Run the engine to evacuate the system fully. Shut off the engine and slowly reduce the vacuum in the system by moderate brake applications until the vehicle gauge reads 8 inches of mercury. Observe the functioning of the low-vacuum indicator.

(c) *Vacuum brake system integrity.* The vacuum brake system shall demonstrate integrity by meeting the following requirements: (1) The vacuum brake system shall provide vacuum reserve to permit one service brake application with a brake pedal force of 50 pounds after the engine is turned off without actuating the low vacuum indicator. (2) Trailer vacuum brakes shall operate in conjunction with the truck or truck tractor brake pedal.

Inspection procedure. Check the trailer vacuum system by coupling trailer(s) to truck or truck tractor and opening trailer shutoff valves. Start the engine and after allowing approximately 1 minute to build up the vacuum, apply and release the brake pedal. In the case of trailer brakes equipped with brake chamber rods, observe the chamber rod movement. Run the engine to re-establish maximum vacuum, then shut off the engine and apply the brakes with a 50-pound force on the brake pedal. Note the brake application and check for low-vacuum indicator activation.

For a combination vehicle equipped with breakaway protection and no reservoir on the towing vehicle supply line, close the supply line shutoff valve and disconnect the supply line. Apply a 50-pound force to the brake pedal on the towing vehicle and release. Trailer brakes should remain in the applied position.

(d) *Vacuum system hoses, tubes and connections.* Vacuum hoses, tubes and connections shall be in place and properly supported. Vacuum hoses shall not be collapsed, cracked or abraded.

Inspection procedure. With the engine running, examine hoses and tubes for the conditions indicated and note broken or missing clamps.

Subpart B—Vehicles With GVWR of More Than 10,000 Pounds

- 570.51 Scope**
- 570.52 Purpose**
- 570.53 Applicability**
- 570.54 Definitions**
- 570.55 Hydraulic brake system**
- 570.56 Vacuum brake assist unit and vacuum brake system**
- 570.57 Air brake system and air-over-hydraulic brake subsystem**
- 570.58 Electric brake system**
- 570.59 Service brake system**
- 570.60 Steering system**
- 570.61 Suspension system**
- 570.62 Tires**
- 570.63 Wheel assemblies**

AUTHORITY: Secs. 103, 108, 119, Public Law 89-563, 80 Stat 78, 15 U.S.C. 1392, 1397, 1407; delegation of authority at 49 CFR 1.51.

§ 570.51 Scope. This part specifies standards and procedures for the inspection of brake, steering and suspension systems, and tire and wheel assemblies, of motor vehicles in use with a gross vehicle weight rating of more than 10,000 pounds.

§ 570.52 Purpose. The purpose of this part is to establish criteria for the inspection of motor vehicles through State inspection programs, in order to reduce deaths and injuries attributable to failure or inadequate performance of the motor vehicle systems covered by this part.

§ 570.53 Applicability. This part does not in itself impose requirements on any person. It is intended to be implemented by States through the highway safety program standards issued under the Highway Safety Act (23 U.S.C. 402) with respect to inspection of motor vehicles with gross vehicle weight rating greater than 10,000 pounds, except mobile structure trailers.

§ 570.54 Definitions. Unless otherwise indicated, all terms used in this part that are defined in 49 CFR Part 571, Motor Vehicle Safety Standards, are used as defined in that part.

“Air-over-hydraulic brake subsystem” means a subsystem of the air brake that uses compressed air to transmit a force from the driver control to a hydraulic brake system to actuate the service brakes.

“Electric brake system” means a system that uses electric current to actuate the service brake.

“Vacuum brake system” means a system that uses a vacuum and atmospheric pressure for transmitting a force from the driver control to the service brake, but does not include a system that uses vacuum only to assist the driver in applying muscular force to hydraulic or mechanical components.

§ 570.55 Hydraulic brake system. The following requirements apply to vehicles with hydraulic brake systems.

(a) *Brake system failure indicator.* The hydraulic brake system failure indicator lamp, if part of a vehicle's original equipment, shall be operable.

Inspection procedure. Apply the parking brake and turn the ignition to start to verify that the brake system failure indicator lamp is operable, or verify by other means recommended by the vehicle manufacturer.

(b) *Brake system integrity.* The hydraulic brake system shall demonstrate integrity as indicated by no perceptible decrease in pedal height under a 125-pound force applied to the brake pedal and by no illumination of the brake system failure indicator lamp. The brake system shall withstand the application of force to the pedal without failure of any tube, hose or other part.

Inspection procedure. With the engine running in vehicles equipped with power brake systems and the ignition turned to “on” in other vehicles, apply a force of 125 pounds to the brake pedal and hold for 10 seconds. Note any additional decrease in pedal height after the initial decrease, and whether the brake system failure indicator lamp illuminates.

(c) *Brake pedal reserve.* When the brake pedal is depressed with a force of 50 pounds, the distance that the pedal has traveled from its free position shall be not greater than 80 percent of the total distance from its free position to the

floorboard or other object that restricts pedal travel. The brake pedal reserve test is not required for vehicles with brake systems designed by the original vehicle manufacturer to operate with greater than 80 percent pedal travel.

Inspection procedure. Measure the distance (A) from the free pedal position to the floorboard or other object that restricts brake pedal travel. Depress the brake pedal, and with the force applied measure the distance (B) from the depressed pedal position to the floorboard or other object that restricts pedal travel. Determine the pedal travel percentage as $\frac{A-B}{A} \times 100$.

The engine must be operating when power-assisted brakes are checked.

(d) *Brake hoses, master cylinder, tubes and tube assemblies.* Hydraulic brake hoses shall not be mounted so as to contact the vehicle body or chassis. Hoses shall not be cracked, chafed, or flattened. Brake tubes shall not be flattened or restricted. Brake hoses and tubes shall be attached or supported to prevent damage by vibration or abrasion. Master cylinder shall not show signs of leakage. Hose or tube protective rings or devices shall not be considered part of the hose or tubing.

Inspection procedure. Examine visually brake master cylinder, hoses and tubes, including front brake hoses, through all wheel positions from full left turn to full right turn for conditions indicated.

§ 570.56 Vacuum brake assist unit and vacuum brake system. The following requirements apply to vehicles with vacuum brake assist units and vacuum brake systems.

(a) *Vacuum brake assist unit integrity.* The vacuum brake assist unit shall demonstrate integrity as indicated by a decrease in pedal height when the engine is started and a constant 50-pound force is maintained on the pedal.

Inspection procedure. Stop the engine and apply service brake several times to destroy vacuum in system. Depress the brake pedal with 50 pounds of force and while maintaining that force, start the engine. If the brake pedal does not move slightly under force when the engine starts, there is a malfunction in the power assist unit.

(b) *Low-vacuum indicator.* If the vehicle has a low-vacuum indicator, the indicator activation level shall not be less than 8 inches of mercury.

Inspection procedure. Run the engine to evacuate the system fully. Shut off the engine and slowly reduce the vacuum in the system by moderate brake applications until the vehicle gauge reads 8 inches of mercury. Observe the functioning of the low-vacuum indicator.

(c) *Vacuum brake system integrity.* The vacuum brake system shall demonstrate integrity by meeting the following requirements: (1) The vacuum brake system shall provide vacuum reserve to permit one service brake application with a brake pedal force of 50 pounds after the engine is turned off without actuating the low vacuum indicator. (2) Trailer vacuum brakes shall operate in conjunction with the truck or truck tractor brake pedal.

Inspection procedure. Check the trailer vacuum system by coupling trailer(s) to truck or truck tractor and opening trailer shutoff valves. Start the engine and after allowing approximately 1 minute to build up the vacuum, apply and release the brake pedal. In the case of trailer brakes equipped with brake chamber rods, observe the chamber rod movement. Run the engine to re-establish maximum vacuum, then shut off the engine and apply the brakes with a 50-pound force on the brake pedal. Note the brake application and check for low-vacuum indicator activation.

For a combination vehicle equipped with breakaway protection and no reservoir on the towing vehicle supply line, close the supply line shutoff valve and disconnect the supply line. Apply a 50-pound force to the brake pedal on the towing vehicle and release. Trailer brakes should remain in the applied position.

(d) *Vacuum system hoses, tubes and connections.* Vacuum hoses, tubes and connections shall be in place and properly supported. Vacuum hoses shall not be collapsed, cracked or abraded.

Inspection procedure. With the engine running, examine hoses and tubes for the conditions indicated and note broken or missing clamps.

§ 570.57 Air brake system and air-over-hydraulic brake subsystem. The following requirements apply to vehicles with air brake and air-over-hydraulic brake systems. Trailer(s) must be coupled to a truck or truck-tractor for the purpose of this inspection, except as noted.

(a) *Air brake system integrity.* The air brake system shall demonstrate integrity by meeting the following requirements:

(1) With the vehicle in a stationary position, compressed air reserve shall be sufficient to permit one full service brake application, after the engine is stopped and with the system fully charged, without lowering reservoir pressure more than 20 percent below the initial reading.

(2) The air brake system compressor shall increase the air pressure in the reservoir(s) from the level developed after the test prescribed in § 570.57(a)(1) to the initial pressure noted before the full brake application, with the engine running at the manufacturer's maximum recommended number of revolutions per minute with the compressor governor in the cut-off position, in not more than 30 seconds for vehicles manufactured prior to March 1, 1975. For vehicles manufactured on or after March 1, 1975, the time allowed for air pressure build-up shall not exceed 45 seconds.

(3) The warning device (visual or audible) connected to the brake system air pressure source shall be activated when air pressure is lowered to an activating level that is not less than 50 psi. For vehicles manufactured to conform to Federal Motor Vehicle Safety Standard No. 121, the low-pressure indicator shall be activated when air pressure is lowered to an activating level that is not less than 60 psi.

(4) The governor cut-in pressure shall be not lower than 80 psi, and the cut-out pressure shall be not higher than 135 psi, unless other values are recommended by the vehicle manufacturer.

(5) Air brake pressure shall not drop more than 2 psi in 1 minute for single vehicles or more than 3 psi in 1 minute for combination vehicles, with the engine stopped and service brakes released. There may be an additional 1 psi drop per minute for each additional towed vehicle.

(6) With the reservoir(s) fully charged, air pressure shall not drop more than 3 psi in 1 minute for single vehicles or more than 4 psi in 1 minute for combination vehicles, with the engine stopped and service brakes fully applied. There may be an additional 1 psi drop per minute for each additional towed vehicle.

(7) The compressor drive belt shall not be badly worn or frayed and belt-tension shall be sufficient to prevent slippage.

Inspection procedure. With the air system charged, open the drain cocks in the service and supply reservoir on the truck or truck-tractor. Note the pressure at which the visual or audible warning device connected to the low-pressure indicator is activated. Close the drain cocks, and, with the trailer(s) uncoupled, check air pressure build-up at the manufacturer's recommended engine speed. Observe the time required to raise the air pressure from 85 to 100 psi. Continue running the engine until the governor cuts out and note the pressure. Reduce engine speed to idle, couple the trailer(s), if applicable, and make a series of brake applications. Note the pressure at which the governor cuts in. Increase engine speed to fast idle and charge the system to its governed pressure. Stop the engine and record the pressure drop in psi per minute with brakes released and with brakes fully applied.

(b) *Air brake system hoses, tubes and connections.* Air system tubes, hoses and connections shall not be restricted, cracked or improperly supported, and the air hose shall not be abraded.

Inspection procedure. Stop the engine and examine air hoses, tubes and connections visually for conditions specified.

(c) *Air-over-hydraulic brake subsystem integrity.* The air-over-hydraulic brake subsystem shall demonstrate integrity by meeting the following requirements:

(1) The air brake system compressor shall increase the air pressure in the reservoir(s) from the level developed after the test prescribed in § 570.57(a)(1) to the initial pressure noted before the full brake application, with the engine running at the manufacturer's recommended number of revolutions per minute and the compressor governor in the cut-out

position, in not more than 30 seconds for vehicles manufactured prior to March 1, 1975. For vehicles manufactured on or after March 1, 1975, the time for air pressure build up shall not exceed 45 seconds.

(2) The warning device (visual or audible) connected to the brake system air pressure source shall be activated when the air pressure is lowered to not less than 50 psi.

(3) The governor cut-in pressure shall be not lower than 80 psi, and the cut-out pressure shall not be higher than 135 psi, unless other values are recommended by the vehicle manufacturer.

(4) Air brake pressure shall not drop more than 2 psi in 1 minute for single vehicles or more than 3 psi in 1 minute for combination vehicles, with the engine stopped and service brakes released. Allow a 1-psi drop per minute for each additional towed vehicle.

(5) With the reservoir(s) fully charged, air pressure shall not drop more than 3 psi in 1 minute for single vehicles or more than 4 psi in 1 minute for combination vehicles, with the engine stopped and service brakes fully applied. Allow a 1-psi pressure drop in 1 minute for each additional towed vehicle.

(6) The compressor drive belt shall not be badly worn or frayed and belt tension shall be sufficient to prevent slippage.

Inspection procedure. With the air system charged, open the drain cocks in the service and supply reservoir on the truck or truck-tractor. Note the pressure at which the visual or audible warning device connected to the low pressure indicator is activated. Close the drain cocks and, with the trailers uncoupled, check air pressure build up at the manufacturer's recommended engine speed. Observe the time required to raise the air pressure from 85 to 100 psi. Continue running the engine until the governor cuts out and note the pressure. Reduce engine speed to idle, couple trailers, and make a series of brake applications. Note the pressure at which the governor cuts in. Increase engine speed to fast idle and charge the system to its governed pressure. Stop the engine and record the pressure

drop in psi per minute with brakes released and with brakes fully applied.

(d) *Air-over-hydraulic brake subsystem hoses, master cylinder, tubes and connections.* System tubes, hoses and connections shall not be cracked or improperly supported, the air and hydraulic hoses shall not be abraded and the master cylinder shall not show signs of leakage.

Inspection procedure. Stop the engine and examine air and hydraulic brake hoses, brake master cylinder, tubes and connections visually for conditions specified.

§ 570.58 Electric brake system.

(a) *Electric brake system integrity.* The average brake amperage value shall be not more than 20 percent above, and not less than 30 percent below, the brake manufacturer's maximum current rating. In progressing from zero to maximum, the ammeter indication shall show no fluctuation evidencing a short circuit or other interruption of current.

Inspection procedure. Insert a low range (0 to 25 amperes for most 2- and 4-brake systems and 0 to 40 amperes for a 6-brake system) d.c. ammeter into the brake circuit between the controller and the brakes. With the controller in the "off" position, the ammeter should read zero. Gradually apply the controller to the "full on" position for a brief period (not to exceed 1 minute) and observe the maximum ammeter reading. Gradually return the controller to "full off" and observe return to zero amperes. Divide the maximum ammeter reading by the number of brakes and determine the brake amperage value.

(b) *Electric brake wiring condition.* Electric brake wiring shall not be frayed. Wiring clips or brackets shall not be broken or missing. Terminal connections shall be clean. Conductor wire gauge shall not be below the brake manufacturer's minimum recommendation.

Inspection procedure. Examine visually for conditions specified.

§ 570.59 Service brake system.

(a) *Service brake performance.* Compliance with any one of the following performance cri-

§ 570.57 Air brake system and air-over-hydraulic brake subsystem. The following requirements apply to vehicles with air brake and air-over-hydraulic brake systems. Trailer(s) must be coupled to a truck or truck-tractor for the purpose of this inspection, except as noted.

(a) *Air brake system integrity.* The air brake system shall demonstrate integrity by meeting the following requirements.:

(1) With the vehicle in a stationary position, compressed air reserve shall be sufficient to permit one full service brake application, after the engine is stopped and with the system fully charged, without lowering reservoir pressure more than 20 percent below the initial reading.

(2) The air brake system compressor shall increase the air pressure in the reservoir(s) from the level developed after the test prescribed in § 570.57(a)(1) to the initial pressure noted before the full brake application, with the engine running at the manufacturer's maximum recommended number of revolutions per minute with the compressor governor in the cut-off position, in not more than 30 seconds for vehicles manufactured prior to March 1, 1975. For vehicles manufactured on or after March 1, 1975, the time allowed for air pressure build-up shall not exceed 45 seconds.

(3) The warning device (visual or audible) connected to the brake system air pressure source shall be activated when air pressure is lowered to an activating level that is not less than 50 psi. For vehicles manufactured to conform to Federal Motor Vehicle Safety Standard No. 121, the low-pressure indicator shall be activated when air pressure is lowered to an activating level that is not less than 60 psi.

(4) The governor cut-in pressure shall be not lower than 80 psi, and the cut-out pressure shall be not higher than 135 psi, unless other values are recommended by the vehicle manufacturer.

(5) Air brake pressure shall not drop more than 2 psi in 1 minute for single vehicles or more than 3 psi in 1 minute for combination vehicles, with the engine stopped and service brakes released. There may be an additional 1 psi drop per minute for each additional towed vehicle.

(6) With the reservoir(s) fully charged, air pressure shall not drop more than 3 psi in 1 minute for single vehicles or more than 4 psi in 1 minute for combination vehicles, with the engine stopped and service brakes fully applied. There may be an additional 1 psi drop per minute for each additional towed vehicle.

(7) The compressor drive belt shall not be badly worn or frayed and belt-tension shall be sufficient to prevent slippage.

Inspection procedure. With the air system charged, open the drain cocks in the service and supply reservoir on the truck or truck-tractor. Note the pressure at which the visual or audible warning device connected to the low-pressure indicator is activated. Close the drain cocks, and, with the trailer(s) uncoupled, check air pressure build-up at the manufacturer's recommended engine speed. Observe the time required to raise the air pressure from 85 to 100 psi. Continue running the engine until the governor cuts out and note the pressure. Reduce engine speed to idle, couple the trailer(s), if applicable, and make a series of brake applications. Note the pressure at which the governor cuts in. Increase engine speed to fast idle and charge the system to its governed pressure. Stop the engine and record the pressure drop in psi per minute with brakes released and with brakes fully applied.

(b) *Air brake system hoses, tubes and connections.* Air system tubes, hoses and connections shall not be restricted, cracked or improperly supported, and the air hose shall not be abraded.

Inspection procedure. Stop the engine and examine air hoses, tubes and connections visually for conditions specified.

(c) *Air-over-hydraulic brake subsystem integrity.* The air-over-hydraulic brake subsystem shall demonstrate integrity by meeting the following requirements:

(1) The air brake system compressor shall increase the air pressure in the reservoir(s) from the level developed after the test prescribed in § 570.57(a)(1) to the initial pressure noted before the full brake application, with the engine running at the manufacturer's recommended number of revolutions per minute and the compressor governor in the cut-out

position, in not more than 30 seconds for vehicles manufactured prior to March 1, 1975. For vehicles manufactured on or after March 1, 1975, the time for air pressure build up shall not exceed 45 seconds.

(2) The warning device (visual or audible) connected to the brake system air pressure source shall be activated when the air pressure is lowered to not less than 50 psi.

(3) The governor cut-in pressure shall be not lower than 80 psi, and the cut-out pressure shall not be higher than 135 psi, unless other values are recommended by the vehicle manufacturer.

(4) Air brake pressure shall not drop more than 2 psi in 1 minute for single vehicles or more than 3 psi in 1 minute for combination vehicles, with the engine stopped and service brakes released. Allow a 1-psi drop per minute for each additional towed vehicle.

(5) With the reservoir(s) fully charged, air pressure shall not drop more than 3 psi in 1 minute for single vehicles or more than 4 psi in 1 minute for combination vehicles, with the engine stopped and service brakes fully applied. Allow a 1-psi pressure drop in 1 minute for each additional towed vehicle.

(6) The compressor drive belt shall not be badly worn or frayed and belt tension shall be sufficient to prevent slippage.

Inspection procedure. With the air system charged, open the drain cocks in the service and supply reservoir on the truck or truck-tractor. Note the pressure at which the visual or audible warning device connected to the low pressure indicator is activated. Close the drain cocks and, with the trailers uncoupled, check air pressure build up at the manufacturer's recommended engine speed. Observe the time required to raise the air pressure from 85 to 100 psi. Continue running the engine until the governor cuts out and note the pressure. Reduce engine speed to idle, couple trailers, and make a series of brake applications. Note the pressure at which the governor cuts in. Increase engine speed to fast idle and charge the system to its governed pressure. Stop the engine and record the pressure

drop in psi per minute with brakes released and with brakes fully applied.

(d) *Air-over-hydraulic brake subsystem hoses, master cylinder, tubes and connections.* System tubes, hoses and connections shall not be cracked or improperly supported, the air and hydraulic hoses shall not be abraded and the master cylinder shall not show signs of leakage.

Inspection procedure. Stop the engine and examine air and hydraulic brake hoses, brake master cylinder, tubes and connections visually for conditions specified.

§ 570.58 Electric brake system.

(a) *Electric brake system integrity.* The average brake amperage value shall be not more than 20 percent above, and not less than 30 percent below, the brake manufacturer's maximum current rating. In progressing from zero to maximum, the ammeter indication shall show no fluctuation evidencing a short circuit or other interruption of current.

Inspection procedure. Insert a low range (0 to 25 amperes for most 2- and 4-brake systems and 0 to 40 amperes for a 6-brake system) d.c. ammeter into the brake circuit between the controller and the brakes. With the controller in the "off" position, the ammeter should read zero. Gradually apply the controller to the "full on" position for a brief period (not to exceed 1 minute) and observe the maximum ammeter reading. Gradually return the controller to "full off" and observe return to zero amperes. Divide the maximum ammeter reading by the number of brakes and determine the brake amperage value.

(b) *Electric brake wiring condition.* Electric brake wiring shall not be frayed. Wiring clips or brackets shall not be broken or missing. Terminal connections shall be clean. Conductor wire gauge shall not be below the brake manufacturer's minimum recommendation.

Inspection procedure. Examine visually for conditions specified.

§ 570.59 Service brake system.

(a) *Service brake performance.* Compliance with any one of the following performance cri-

teria will satisfy the requirements of this section. Verify that tire inflation pressure is within the limits recommended by the vehicle manufacturer before conducting either of the following tests.

(1) *Roller-type or drive-on platform tests.* The force applied by the brake on a front wheel or a rear wheel shall not differ by more than 25 percent from the force applied by the brake on the other front wheel or the other rear wheel respectively.

Inspection procedure. The vehicle shall be tested on a drive-on platform, or a roller-type brake analyzer with the capability of measuring equalization. The test shall be conducted in accordance with the test equipment manufacturer's specifications. Note the brake force variance.

(2) *Road test.* The service brake system shall stop single unit vehicles, except truck-tractors, in a distance of not more than 35 feet, or combination vehicles and truck-tractors in a distance of not more than 40 feet, from a speed of 20 mph, without leaving a 12-foot-wide lane.

Inspection procedure. The road test shall be conducted on a level (not to exceed plus or minus 1 percent grade), dry, smooth, hardsurfaced road that is free from loose material, oil or grease. The service brakes shall be applied at a vehicle speed of 20 mph and the vehicle shall be brought to a stop as specified. Measure the distance required to stop.

Note. Inspect for (b), (c), and (d) below on vehicles equipped with brake inspection ports or access openings, and when removal of wheel is not required.

(b) *Disc and drum condition.* If the drum is embossed with a maximum safe diameter dimension or the rotor is embossed with a minimum safe thickness dimension, the drum or disc shall be within the appropriate specifications. These dimensions will generally be found on motor vehicles manufactured since January 1, 1971, and may be found on vehicles manufactured for several years prior to that time. If the drums and discs are not embossed, they shall be within the manufacturer's specifications.

Inspection procedure. Examine visually for the condition indicated, measuring as necessary.

(c) *Friction materials.* On each brake, the thickness of the lining or pad shall not be less than one thirty-second of an inch over the fastener, or one-sixteenth of an inch over the brake shoe on bonded linings or pads. Brake linings and pads shall not have cracks or breaks that extend to rivet holes except minor cracks that do not impair attachment. The wire in wire-backed lining shall not be visible on the friction surface. Drum brake linings shall be securely attached to brake shoes. Disc brake pads shall be securely attached to shoe plates.

Inspection procedure. Examine visually for the conditions indicated, and measure the height of the rubbing surface of the lining over the fastener heads. Measure bonded lining thickness over the surface at the thinnest point on the lining or pad.

(d) *Structural and mechanical parts.* Backing plates, brake spiders and caliper assemblies shall not be deformed or cracked. System parts shall not be broken, misaligned, missing, binding, or show evidence of severe wear. Automatic adjusters and other parts shall be assembled and installed correctly.

Inspection procedure. Examine visually for conditions indicated.

§ 570.60 Steering system.

(a) *System play.* Lash or free play in the steering system shall not exceed the values shown in Table 3.

Inspection procedure. With the engine on and the steering axle wheels in the straight ahead position, turn the steering wheel in one direction until there is a perceptible movement of the wheel. If a point on the steering wheel rim moves more than the value shown in table 3 before perceptible return movement of the wheel under observation, there is excessive lash or free play in the steering system.

TABLE 3. STEERING WHEEL FREE PLAY VALUE

Steering Wheel Diameter (Inches)	Lash (Inches)
16 or less	2
18	2¼
20	2½
22	2¾

(b) *Linkage play.* Free play in the steering linkage shall not exceed the values shown in Table 4.

Inspection procedure. Elevate the front end of the vehicle to load the ball joints, if the vehicle is so equipped. Insure that wheel bearings are correctly adjusted. Grasp the front and rear of a tire and attempt to turn the tire and wheel assemble left to right. If the free movement at the front or rear tread of the tire exceeds the applicable value shown in Table 4, there is excessive steering linkage play.

Table 4. Front Wheel Steering Linkage Free Play

Nominal bead diameter or rim size (inches)	Play (inches)
16 or less	$\frac{1}{4}$
16.01 through 18.00	$\frac{3}{8}$
18.01 or more	$\frac{1}{2}$

(c) *Free turning.* Steerings wheels shall turn freely through the limit of travel in both directions.

Inspection procedure. With the engine running on a vehicle with power steering, or the steerable wheels elevated on a vehicle without power steering, turn the steering wheel through the limit of travel in both directions. Feel for binding or jamming in the steering gear mechanism.

(d) *Alignment.* Toe-in or toe-out condition shall not be greater than 1.5 times the values listed in the vehicle manufacturer's service specification for alignment setting.

Inspection procedure. Drive the vehicle over a sideslip indicator or measure with a tread gauge, and verify that the toe-in or toe-out is not greater than 1.5 times the values listed in the vehicle manufacturer's service specification.

(e) *Power steering system.* The power steering system shall not have cracked, frayed or slipping belts, chafed or abraded hoses, show signs of leakage or have insufficient fluid in the reservoir.

Inspection procedure. Examine fluid reservoir, hoses and pump belts for the conditions indicated.

NOTE: Inspection of the suspension system must not recede the service brake performance test.

§ 570.61 Suspension system.

(a) *Suspension condition.* Ball joint seals shall not be cut or cracked, other than superficial surface cracks. Ball joints and kingpins shall not be bent or damaged. Stabilizer bars shall be connected. Springs shall not be broken and coil springs shall not be extended by spacers. Shock absorber mountings, shackles, and U-bolts shall be securely attached. Rubber bushings shall not be cracked, extruded out from or missing from suspension joints. Radius rods shall not be missing or damaged.

Inspection procedure. Examine front and rear end suspension parts for the conditions indicated.

(b) *Shock absorber condition.* There shall be no oil on the shock absorber housings attributable to leakage by the seal.

Inspection procedure. Examine shock absorbers for oil leakage from within.

§ 570.62 Tires.

(a) *Tread depth.* The tread shall be not less than four thirty-seconds of an inch deep on each front tire of any vehicle other than a trailer and not less than two thirty-seconds of an inch on all other tires.

Inspection procedure. For tires with treadwear indicators, check for indicators in any two adjacent major grooves at three locations spaced approximately 120° apart around the circumference of the tire. For tires without treadwear indicators, measure the tread depth with a suitable gauge or scale in two adjacent major grooves at 3 locations spaces approximately 120° apart around the circumference of the tire at the area of greatest wear.

(b) *Type.* Vehicles should be equipped with tires on the same axle that are matched in construction and tire size designation, and dual tires shall be matched for overall diameter within one-half inch.

Inspection procedure. Examine visually. A mismatch in size and construction between

teria will satisfy the requirements of this section. Verify that tire inflation pressure is within the limits recommended by the vehicle manufacturer before conducting either of the following tests.

(1) *Roller-type or drive-on platform tests.* The force applied by the brake on a front wheel or a rear wheel shall not differ by more than 25 percent from the force applied by the brake on the other front wheel or the other rear wheel respectively.

Inspection procedure. The vehicle shall be tested on a drive-on platform, or a roller-type brake analyzer with the capability of measuring equalization. The test shall be conducted in accordance with the test equipment manufacturer's specifications. Note the brake force variance.

(2) *Road test.* The service brake system shall stop single unit vehicles, except truck-tractors, in a distance of not more than 35 feet, or combination vehicles and truck-tractors in a distance of not more than 40 feet, from a speed of 20 mph, without leaving a 12-foot-wide lane.

Inspection procedure. The road test shall be conducted on a level (not to exceed plus or minus 1 percent grade), dry, smooth, hardsurfaced road that is free from loose material, oil or grease. The service brakes shall be applied at a vehicle speed of 20 mph and the vehicle shall be brought to a stop as specified. Measure the distance required to stop.

Note. Inspect for (b), (c), and (d) below on vehicles equipped with brake inspection ports or access openings, and when removal of wheel is not required.

(b) *Disc and drum condition.* If the drum is embossed with a maximum safe diameter dimension or the rotor is embossed with a minimum safe thickness dimension, the drum or disc shall be within the appropriate specifications. These dimensions will generally be found on motor vehicles manufactured since January 1, 1971, and may be found on vehicles manufactured for several years prior to that time. If the drums and discs are not embossed, they shall be within the manufacturer's specifications.

Inspection procedure. Examine visually for the condition indicated, measuring as necessary.

(c) *Friction materials.* On each brake, the thickness of the lining or pad shall not be less than one thirty-second of an inch over the fastener, or one-sixteenth of an inch over the brake shoe on bonded linings or pads. Brake linings and pads shall not have cracks or breaks that extend to rivet holes except minor cracks that do not impair attachment. The wire in wire-backed lining shall not be visible on the friction surface. Drum brake linings shall be securely attached to brake shoes. Disc brake pads shall be securely attached to shoe plates.

Inspection procedure. Examine visually for the conditions indicated, and measure the height of the rubbing surface of the lining over the fastener heads. Measure bonded lining thickness over the surface at the thinnest point on the lining or pad.

(d) *Structural and mechanical parts.* Backing plates, brake spiders and caliper assemblies shall not be deformed or cracked. System parts shall not be broken, misaligned, missing, binding, or show evidence of severe wear. Automatic adjusters and other parts shall be assembled and installed correctly.

Inspection procedure. Examine visually for conditions indicated.

§ 570.60 Steering system.

(a) *System play.* Lash or free play in the steering system shall not exceed the values shown in Table 3.

Inspection procedure. With the engine on and the steering axle wheels in the straight ahead position, turn the steering wheel in one direction until there is a perceptible movement of the wheel. If a point on the steering wheel rim moves more than the value shown in table 3 before perceptible return movement of the wheel under observation, there is excessive lash or free play in the steering system.

TABLE 3. STEERING WHEEL FREE PLAY VALUE

Steering Wheel Diameter (Inches)	Lash (Inches)
16 or less	2
18	2½
20	2½
22	2½

(b) *Linkage play.* Free play in the steering linkage shall not exceed the values shown in Table 4.

Inspection procedure. Elevate the front end of the vehicle to load the ball joints, if the vehicle is so equipped. Insure that wheel bearings are correctly adjusted. Grasp the front and rear of a tire and attempt to turn the tire and wheel assemble left to right. If the free movement at the front or rear tread of the tire exceeds the applicable value shown in Table 4, there is excessive steering linkage play.

Table 4. Front Wheel Steering Linkage Free Play

Nominal bead diameter or rim size (inches)	Play (inches)
16 or less	$\frac{1}{4}$
16.01 through 18.00	$\frac{3}{8}$
18.01 or more	$\frac{1}{2}$

(c) *Free turning.* Steerings wheels shall turn freely through the limit of travel in both directions.

Inspection procedure. With the engine running on a vehicle with power steering, or the steerable wheels elevated on a vehicle without power steering, turn the steering wheel through the limit of travel in both directions. Feel for binding or jamming in the steering gear mechanism.

(d) *Alignment.* Toe-in or toe-out condition shall not be greater than 1.5 times the values listed in the vehicle manufacturer's service specification for alignment setting.

Inspection procedure. Drive the vehicle over a sideslip indicator or measure with a tread gauge, and verify that the toe-in or toe-out is not greater than 1.5 times the values listed in the vehicle manufacturer's service specification.

(e) *Power steering system.* The power steering system shall not have cracked, frayed or slipping belts, chafed or abraded hoses, show signs of leakage or have insufficient fluid in the reservoir.

Inspection procedure. Examine fluid reservoir, hoses and pump belts for the conditions indicated.

NOTE: Inspection of the suspension system must not recede the service brake performance test.

§ 570.61 Suspension system.

(a) *Suspension condition.* Ball joint seals shall not be cut or cracked, other than superficial surface cracks. Ball joints and kingpins shall not be bent or damaged. Stabilizer bars shall be connected. Springs shall not be broken and coil springs shall not be extended by spacers. Shock absorber mountings, shackles, and U-bolts shall be securely attached. Rubber bushings shall not be cracked, extruded out from or missing from suspension joints. Radius rods shall not be missing or damaged.

Inspection procedure. Examine front and rear end suspension parts for the conditions indicated.

(b) *Shock absorber condition.* There shall be no oil on the shock absorber housings attributable to leakage by the seal.

Inspection procedure. Examine shock absorbers for oil leakage from within.

§ 570.62 Tires.

(a) *Tread depth.* The tread shall be not less than four thirty-seconds of an inch deep on each front tire of any vehicle other than a trailer and not less than two thirty-seconds of an inch on all other tires.

Inspection procedure. For tires with treadwear indicators, check for indicators in any two adjacent major grooves at three locations spaced approximately 120° apart around the circumference of the tire. For tires without treadwear indicators, measure the tread depth with a suitable gauge or scale in two adjacent major grooves at 3 locations spaces approximately 120° apart around the circumference of the tire at the area of greatest wear.

(b) *Type.* Vehicles should be equipped with tires on the same axle that are matched in construction and tire size designation, and dual tires shall be matched for overall diameter within one-half inch.

Inspection procedure. Examine visually. A mismatch in size and construction between

tires on the same axle, or a major deviation from the size recommended by the vehicle or tire manufacturer, is a cause for rejection. On a dual-tire arrangement the diameter of one of the duals must be within one-half inch of the other as measured by a gauge block inserted between the tire and a caliper.

(c) *General condition.* Tires shall be free from chunking, bumps, knots, or bulges evidencing cord, ply or tread separation from the casing.

Inspection procedure. Examine visually for the conditions indicated.

(d) *Damage.* Tire cords or belting materials shall not be exposed, either to the naked eye or when cuts on the tire are probed. Reinforcement repairs to the cord body are allowable on tires other than front-mounted tires.

Inspection procedure. Examine visually for the conditions indicated, using a blunt instrument if necessary to probe cuts and abrasions.

(e) *Special purpose tires.* Tires marked "Not For Highway Use" or "Farm Use Only" or other such restrictions shall not be used on any motor vehicle operating on public highways.

Inspection procedure. Examine visually for tires labeled with specific restrictions.

§ 570.63 Wheel assemblies.

(a) *Wheel integrity.* A tire rim, wheel disc or spider shall have no visible cracks, elongated bolt holes, or indications of in-service repair by welding.

Inspection procedure. Examine visually for the conditions indicated.

(b) *Cast Wheels.* Cast wheels shall not be cracked or show evidence of excessive wear in the clamp area.

Inspection procedure. Examine visually for the conditions indicated.

(c) *Mounting.* All wheel nuts shall be in place and tight.

Inspection procedure. Check wheel retention for the conditions indicated.

**39 F.R. 26026
July 16, 1974**

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(c) *General condition.* Tires shall be free from chunking, bumps, knots, or bulges evidencing cord, ply or tread separation from the casing.

Inspection procedure. Examine visually for the conditions indicated.

(d) *Damage.* Tire cords or belting materials shall not be exposed, either to the naked eye or when cuts on the tire are probed. Reinforcement repairs to the cord body are allowable on tires other than front-mounted tires.

Inspection procedure. Examine visually for the conditions indicated, using a blunt instrument if necessary to probe cuts and abrasions.

(e) *Special purpose tires.* Tires marked "Not For Highway Use" or "Farm Use Only" or other such restrictions shall not be used on any motor vehicle operating on public highways.

Inspection procedure. Examine visually for tires labeled with specific restrictions.

§ 570.83 Wheel assemblies.

(a) *Wheel integrity.* A tire rim, wheel disc or spider shall have no visible cracks, elongated bolt holes, or indications of in-service repair by welding.

Inspection procedure. Examine visually for the conditions indicated.

(b) *Cast Wheels.* Cast wheels shall not be cracked or show evidence of excessive wear in the clamp area.

Inspection procedure. Examine visually for the conditions indicated.

(c) *Mounting.* All wheel nuts shall be in place and tight.

Inspection procedure. Check wheel retention for the conditions indicated.

**39 F.R. 26026
July 16, 1974**

PREAMBLE TO PART 571

Initial Federal Motor Vehicle Safety Standards

(Docket No. 3)

This order establishes Initial Federal Motor Vehicle Safety Standards for new motor vehicles and equipment. A notice of rule making proposing the Initial Standards was issued on November 30, 1966 (31 F.R. 15212, corrected 31 F.R. 15600). All pertinent matter in the written and oral comments received has been fully considered. Considerations of time prevent discussion of comments on individual standards.

The motor vehicle safety standards are rules as that term is defined in 5 U.S.C. sec. 551(4). The established practice is that the public record of a rule-making procedure under 5 U.S.C. section 553 (former sec. 4 Administrative Procedure Act), involving a substantive rule and instituted upon an agency's own initiative, begins with the notice of rule making. An agency is under no legal duty to reveal the internal processes that shaped the project, and interested persons are not entitled to comment thereon, 5 U.S.C. section 553(b)(3). Where, as here, the addresses of a proposed rule are themselves actively engaged as experts on the subject matter, their understanding of the meaning and effect of a rule is certainly not impaired by the absence of such a disclosure. As a practical proposition, this Agency intends to adopt a policy of the greatest possible disclosure of underlying considerations in future substantive rule making when it will not operate under an unusually tight time schedule. In this instance, such disclosure was not possible, and administrative due process required no more than publication of the notice. The requirement that the standards be based on a record does not operate to require insertion in the record of matter not required as part of a rule-making notice.

The following findings are made with respect to all standards—

(1) Each standard is a minimum standard for motor vehicle or equipment performance which is practicable and meets the need for motor vehicle safety, and provides objective criteria;

(2) Each standard is reasonable, practicable, and appropriate for the particular class of motor vehicle or item of equipment for which it is prescribed;

(3) Each standard will contribute substantially to the purpose of reducing traffic accidents, and deaths and injuries to persons resulting therefrom, in the United States; and

(4) The matter incorporated by reference is reasonably available to the persons affected by this regulation.

In addition to the vehicle classes of passengers cars, motorcycles, trucks, buses, and trailers proposed in the Notice, the initial standards as herein established introduce the new class of "multipurpose passenger vehicles." Only standards proposed in the Notice for vehicles now in this class are made applicable to this class. Each standard applies only to the class of vehicles to which it is made applicable by its terms.

The initial standards may be amended from time to time. Each standard remains in effect until rescinded or superseded by a Revised Standard actually becoming effective.

The requirements of Standard No. 209 were originally published on August 31, 1966 (31 F.R. 11528), as a revision to the existing seat belt standard that had been promulgated by the Secretary of Commerce under the authority of Public Law 88-201. At that time, it was provided that the revised standards would become mandatory after February 28, 1967, and would be an optional alternative to the existing standard until that date. As a result seat belt manu-

Effective: January 1, 1968

facturers had already taken steps to meet the March 1, 1967 date before the Notice for the Initial Federal Motor Vehicle Safety Standards was issued on December 3, 1966. To preserve the continuity of this change to the new seat belt standard, the March 1, 1967 effective date was included in the proposed Initial Federal Motor Vehicle Safety Standards. This places no certification requirement on the vehicle manufacturer, however, until the effective date of the first Standard applicable to a motor vehicle rather than motor vehicle equipment.

In consideration of the foregoing, Chapter II of Title 23 [49] of the Code of Federal Regulations is amended by adding a new Subchapter C—Motor Vehicle Safety Regulations, effective January 1, 1968 except Motor Safety Standard No. 209, "Seat Belt Assemblies—Passenger Cars, Multipurpose Passenger Vehicles, Trucks, and Buses," which becomes effective March 1, 1967, to read as set forth below.

This regulation was proposed as Part 245 but will, for reasons of organization of subject matter, be issued as Part 371 [255].

This rule-making action is taken under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. sec. 1392, 1407) and the delegations

of authority of October 20, 1966 (31 F.R. 13952) and January 24, 1967 (32 F.R. 1005).

Issued in Washington, D.C., on January 31, 1967.

Lowell K. Bridwell,
Acting Under Secretary
of Commerce for Transportation

(SUBPART A—GENERAL)

Sec.	
371.1	Scope
371.3	Definitions
371.5	Matter incorporated by reference
371.7	Applicability
371.9	Separability
371.11	Equivalent demonstration procedure
371.13	Labeling of Chassis Cabs

SUBPART B—STANDARDS

371.21 Federal Motor Vehicle Safety Standards.

'AUTHORITY: The provisions of this part 371 issued under secs. 103, 119, 80 Stat. 719, 728; 15 U.S.C. 1392, 1407.

32 F.R. 2408
February 3, 1967

PREAMBLE TO PART 571
Initial Federal Motor Vehicle Safety Standards
(Docket No. 3)

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The following findings are made with respect to all standards—

(1) Each standard is a minimum standard for motor vehicle or equipment performance which is practicable and meets the need for motor vehicle safety, and provides objective criteria;

(2) Each standard is reasonable, practicable, and appropriate for the particular class of motor vehicle or item of equipment for which it is prescribed;

(3) Each standard will contribute substantially to the purpose of reducing traffic accidents, and deaths and injuries to persons resulting therefrom, in the United States; and

(4) The matter incorporated by reference is reasonably available to the persons affected by this regulation.

In addition to the vehicle classes of passengers cars, motorcycles, trucks, buses, and trailers proposed in the Notice, the initial standards as herein established introduce the new class of "multipurpose passenger vehicles." Only standards proposed in the Notice for vehicles now in this class are made applicable to this class. Each standard applies only to the class of vehicles to which it is made applicable by its terms.

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371.1	Scope
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371.11	Equivalent demonstration procedure
371.13	Labeling of Chassis Cabs

SUBPART B—STANDARDS

371.21 Federal Motor Vehicle Safety Standards.

AUTHORITY: The provisions of this part 371 issued under secs. 103, 119, 80 Stat. 719, 728; 15 U.S.C. 1392, 1407.

32 F.R. 2408
February 3, 1967

PREAMBLE TO AMENDMENTS TO SUBPART A § 571.3b AND § 571.7b

Federal Motor Vehicle Safety Standards Chassis-Cab

(Docket No. 21)

A proposal to amend Part 371, Initial Federal Motor Vehicle Safety Standards, by adding a definition of "incomplete motor vehicles" and specifying labeling requirements was published in the *Federal Register* on December 2, 1967 (32 F.R. 6534), inviting interested persons to comment.

The proposed amendment has been modified to take into account the numerous written and oral comments received. Under the proposed amendment an incomplete vehicle was considered a separable type of motor vehicle. Some of the comments noted that it was unrealistic to consider a bare chassis a motor vehicle since it was no more a motor vehicle and capable of being used on the public highways than many other parts which are incorporated into a completed vehicle. Comments also indicated that the overwhelming majority of what was called incomplete motor vehicles are in the form of a chassis with a cab attached. As such, chassis-cabs have the capability of conforming to the standards but the manufacturer of the chassis-cab cannot always tell what every end use will be.

Comments from body manufacturers and truck dealers indicated they did not have the expertise or the physical apparatus to independently test for all standards previously met by the manufacturer of the incomplete motor vehicle nor did they think they should have to certify that these standards have been met. The consensus of the comments indicated that a manufacturer or dealer should only be responsible for that which he manufactures or affects in assembling the completed vehicle.

On the basis of the comments it appears inappropriate to require persons who merely add to a chassis-cab a body or work-performing or load-carrying structure to certify and to accept

legal responsibility for the chassis-cab's conformance with all motor vehicle safety standards. Additionally, it appears inappropriate to consider bare chassis and similar assemblages motor vehicles until they reach the chassis-cab stage at which they are capable of meeting standards applicable to their principal end use. Accordingly, the regulation defines a chassis-cab as a vehicle and imposes the obligation of conforming to all standards applicable to its principal end use upon the manufacturer of the chassis-cab with a limited exception for the lighting standard.

Chassis-cabs, manufactured on or after January 1, 1968, are required to meet all motor vehicle safety standards applicable to the principal end use intended by its manufacturer, except that where the chassis-cab is equipped with only part and not all of the items of lighting equipment referred to in Standard 108, it need not meet such standard. The chassis-cab is required to meet Standard No. 108 whenever all of the items of lighting equipment referred to in Standard 108 are installed on the chassis-cab. Frequently the manufacturer of the chassis-cab will install only a part of the lighting equipment because he either will not know what end use will be made of the vehicle or because the body or other structure to be added to the chassis-cab will be required to bear the balance of the lighting equipment referred to in Standard No. 108.

In order to provide a means of identifying the chassis-cab, its date of production, the Federal motor vehicle safety standards to which it conforms, and to insure that the person combining the chassis-cab with a body or other structure has adequate information with which to meet his statutory responsibilities, the regulation requires that chassis-cabs manufactured on or after

January 1, 1968, have a label affixed which supplies this information.

Concurrent with the issuance of this amendment the Federal Highway Administration has issued an interpretation (1) describing the responsibility under the National Traffic and Motor Vehicle Safety Act of 1966 of persons who combine bodies or other structures with chassis-cabs and sell the same. In brief, the interpretation requires that persons combining such a chassis-cab with a body or other like structure will be responsible for compliance with the lighting standard and for certification of such compliance under section 114 where such person sells the combined assemblage to another dealer. Additionally, under section 108(a)(1) the person combining the chassis-cab with a body or other like structure will be responsible for assuring that the completed assemblage complies with all applicable standards in effect on the date of manufacture of the chassis-cab, compliance with which has not been previously certified by the manufacturer of the chassis-cab and for assuring that compliance with standards previously met by the chassis-cab have not been adversely affected by reason of the addition of the body or like structure.

The interpretive ruling, however, does not require a truck, bus, or multipurpose vehicle consisting of a chassis-cab manufactured prior to

January 1, 1968, and a body or like structure manufactured at any time, to meet any standard. For further details interested persons are referred to the text of the ruling.

It is recognized that the problems associated with the multistage manufacture of trucks, buses, and multipurpose passenger vehicles are various and complex. . . . Requests for interpretations or modifications will be given appropriate consideration.

Because the Motor Vehicle Safety Standards issued pursuant to the National Traffic and Motor Vehicle Safety Act of 1966 become effective January 1, 1968, it is found for good cause that this regulation becomes effective upon issuance.

(1) F.R. Doc. 67-15175, in Notices Section, *infra*.

(Secs. 103, 119, National Traffic and Motor Vehicle Safety Act of 1966; 15 U.S.C. 1392, 1407; delegation of authority of Mar. 31, 1967 (32 F.R. 5606), Apr. 6, 1967 (32 F.R. 6495), July 27, 1967 (32 F.R. 11276), and Oct. 13, 1967 (32 F.R. 14277)).

Issued in Washington, D.C., on December 29, 1967.

Lowell K. Bridwell,
Federal Highway Administrator

33 F.R. 18
January 3, 1968

PREAMBLE TO AMENDMENTS TO SUBPART A § 571.3b AND § 571.7b

Federal Motor Vehicle Safety Standards Chassis-Cab

(Docket No. 21)

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The proposed amendment has been modified to take into account the numerous written and oral comments received. Under the proposed amendment an incomplete vehicle was considered a separable type of motor vehicle. Some of the comments noted that it was unrealistic to consider a bare chassis a motor vehicle since it was no more a motor vehicle and capable of being used on the public highways than many other parts which are incorporated into a completed vehicle. Comments also indicated that the overwhelming majority of what was called incomplete motor vehicles are in the form of a chassis with a cab attached. As such, chassis-cabs have the capability of conforming to the standards but the manufacturer of the chassis-cab cannot always tell what every end use will be.

Comments from body manufacturers and truck dealers indicated they did not have the expertise or the physical apparatus to independently test for all standards previously met by the manufacturer of the incomplete motor vehicle nor did they think they should have to certify that these standards have been met. The consensus of the comments indicated that a manufacturer or dealer should only be responsible for that which he manufactures or affects in assembling the completed vehicle.

On the basis of the comments it appears inappropriate to require persons who merely add to a chassis-cab a body or work-performing or load-carrying structure to certify and to accept

legal responsibility for the chassis-cab's conformance with all motor vehicle safety standards. Additionally, it appears inappropriate to consider bare chassis and similar assemblages motor vehicles until they reach the chassis-cab stage at which they are capable of meeting standards applicable to their principal end use. Accordingly, the regulation defines a chassis-cab as a vehicle and imposes the obligation of conforming to all standards applicable to its principal end use upon the manufacturer of the chassis-cab with a limited exception for the lighting standard.

Chassis-cabs, manufactured on or after January 1, 1968, are required to meet all motor vehicle safety standards applicable to the principal end use intended by its manufacturer, except that where the chassis-cab is equipped with only part and not all of the items of lighting equipment referred to in Standard 108, it need not meet such standard. The chassis-cab is required to meet Standard No. 108 whenever all of the items of lighting equipment referred to in Standard 108 are installed on the chassis-cab. Frequently the manufacturer of the chassis-cab will install only a part of the lighting equipment because he either will not know what end use will be made of the vehicle or because the body or other structure to be added to the chassis-cab will be required to bear the balance of the lighting equipment referred to in Standard No. 108.

In order to provide a means of identifying the chassis-cab, its date of production, the Federal motor vehicle safety standards to which it conforms, and to insure that the person combining the chassis-cab with a body or other structure has adequate information with which to meet his statutory responsibilities, the regulation requires that chassis-cabs manufactured on or after

January 1, 1968, have a label affixed which supplies this information.

Concurrent with the issuance of this amendment the Federal Highway Administration has issued an interpretation (1) describing the responsibility under the National Traffic and Motor Vehicle Safety Act of 1966 of persons who combine bodies or other structures with chassis-cabs and sell the same. In brief, the interpretation requires that persons combining such a chassis-cab with a body or other like structure will be responsible for compliance with the lighting standard and for certification of such compliance under section 114 where such person sells the combined assemblage to another dealer. Additionally, under section 108(a)(1) the person combining the chassis-cab with a body or other like structure will be responsible for assuring that the completed assemblage complies with all applicable standards in effect on the date of manufacture of the chassis-cab, compliance with which has not been previously certified by the manufacturer of the chassis-cab and for assuring that compliance with standards previously met by the chassis-cab have not been adversely affected by reason of the addition of the body or like structure.

The interpretive ruling, however, does not require a truck, bus, or multipurpose vehicle consisting of a chassis-cab manufactured prior to

January 1, 1968, and a body or like structure manufactured at any time, to meet any standard. For further details interested persons are referred to the text of the ruling.

It is recognized that the problems associated with the multistage manufacture of trucks, buses, and multipurpose passenger vehicles are various and complex. . . . Requests for interpretations or modifications will be given appropriate consideration.

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Issued in Washington, D.C., on December 29, 1967.

Lowell K. Bridwell,
Federal Highway Administrator

33 F.R. 18
January 3, 1968

PREAMBLE TO AMENDMENT TO PART 571

Subpart A—General “Mobile Structure Trailer”

A mobile home for purposes of the Federal motor vehicle safety standards is considered a “trailer” which is defined in 49 CFR 571.3(b) as a “motor vehicle with or without motive power, designed for carrying persons or property and for being drawn by another motor vehicle.” On August 15, 1968, a notice of request for comments was published (33 F.R. 11604) announcing that rulemaking was being considered “which would either exclude mobile homes, offices, classrooms, etc. from applicability of the Federal Motor Vehicle Safety Standards * * * or classify them as a separate category of vehicle subject to regulation.” Comments were requested pertinent to these issues and Docket No. 26 was established to receive them.

The Federal Highway Administrator has evaluated these comments and is of the opinion that a mobile home towed on its own wheels is a “motor vehicle” within the meaning of section 102(3) of the National Traffic and Motor Vehicle Safety Act of 1966 (hereafter the Act), and is properly categorized as a trailer. However, differences between mobile homes and cargo and travel trailers are believed significant enough to warrant the creation of a subcategory of trailer covering mobile homes only. This new subcategory is designated “mobile structure trailer.”

The mobile home industry has asserted that its products are not “motor vehicles” in view of the infrequent use of the average mobile home upon the public streets, roads, and highways. Comments to Docket No. 26 state that the average mobile home is moved once every 40 months, that it spends less than 12 hours on the public roads in 18 to 20 years, and that it only spends 0.055

percent of its useful life on the highway. Thus, it is contended that mobile homes are not “manufactured primarily for use on the public streets, roads, and highways” and hence are not “motor vehicles” for purposes of the Act.

The undisputed fact is that mobile homes as their name implies, are constructed with a view towards over-the-road operations; their capability for travel on public highways is their principal advantage over fixed-site structures. Further, no one denies that mobile homes can present a significant safety hazard when they perform that function.

The Administrator views his conclusion that a mobile home towed on its own wheels is a motor vehicle as being consistent with the criteria expressed in the opinion on mini-bikes published October 3, 1969 (34 F.R. 15416). It is noteworthy that many States in significant ways accord mobile homes the same treatment as conventional motor vehicles. Registration, licensing, or other permission for use on the public roads is generally required. A number of jurisdictions have standards for mobile home lighting, braking, hitching, tire loading, and axle number and location.

Not only is a mobile home towed on its own wheels operationally capable of being used on public thoroughfares, it is almost exclusively so used in traveling from plant to dealer to owner site. Even assuming an infrequent move for the average mobile home, mobile homes as a class are found with increasing frequency on the public roads; industry production in 1967 was 240,000 units and the estimate for 1969 production was 400,000 units. The demand for low-cost housing makes the industry optimistic that there will be similar increases in years to come.

Clearly, when on the public highways, a mobile home towed on its own wheels will present a hazard if its tires, brakes, connection to the towing vehicle, and other factors affecting road-worthiness and traffic safety do not meet minimum standards. While some States, in recognition of this problem, have adopted their own safety standards, the Administrator believes that the decision published today may result in eventual uniformity of safety standards for mobile homes, and for that reason should be welcomed both by the motoring public and by the industry.

The current definition of trailer in § 571.3(b) is sufficient to encompass mobile homes. Yet, because of its size (10 to 14 feet in overall width), construction (a walled and roofed structure), and purpose (general off-road dwelling or commercial use) a mobile home is different from a conventional cargo or travel trailer. Separation by subclassification will allow exclusion of mobile homes from future rulemaking actions relating to trailers which may be inappropriate for mobile homes.

The sole standard presently applicable to trailers (No. 108-Lamps, Reflective Devices, and Associated Equipment) continues to be considered appropriate for mobile homes. In rec-

ognition of the limited road use of mobile homes, manufacturers have been advised for some time that compliance may be achieved by use of a lighting harness removable upon completion of transit.

The Administrator believes that mobile homes, offices, classrooms, etc. or modular portions thereof, should be termed mobile structures. In consideration of the foregoing, 49 CFR 571.3(b) is hereby amended effective immediately to add the following:

"Mobile structure trailer" means a trailer that has a roof and walls, is at least 10 feet wide, and can be used offroad for dwelling or commercial purposes.

Since this amendment merely establishes a subcategory of trailer without imposing any additional burden on any person I find that notice and public procedure are unnecessary and that good cause exists for making it effective on less than 30 days notice.

Issued on March 20, 1970.

F. C. Turner,
Federal Highway Administrator.

35 F.R. 5333
March 31, 1970

PREAMBLE TO AMENDMENT TO PART 571

Subpart A—General “Mobile Structure Trailer”

A mobile home for purposes of the Federal motor vehicle safety standards is considered a “trailer” which is defined in 49 CFR 571.3(b) as a “motor vehicle with or without motive power, designed for carrying persons or property and for being drawn by another motor vehicle.” On August 15, 1968, a notice of request for comments was published (33 F.R. 11604) announcing that rulemaking was being considered “which would either exclude mobile homes, offices, classrooms, etc. from applicability of the Federal Motor Vehicle Safety Standards * * * or classify them as a separate category of vehicle subject to regulation.” Comments were requested pertinent to these issues and Docket No. 26 was established to receive them.

The Federal Highway Administrator has evaluated these comments and is of the opinion that a mobile home towed on its own wheels is a “motor vehicle” within the meaning of section 102(3) of the National Traffic and Motor Vehicle Safety Act of 1966 (hereafter the Act), and is properly categorized as a trailer. However, differences between mobile homes and cargo and travel trailers are believed significant enough to warrant the creation of a subcategory of trailer covering mobile homes only. This new subcategory is designated “mobile structure trailer.”

The mobile home industry has asserted that its products are not “motor vehicles” in view of the infrequent use of the average mobile home upon the public streets, roads, and highways. Comments to Docket No. 26 state that the average mobile home is moved once every 40 months, that it spends less than 12 hours on the public roads in 18 to 20 years, and that it only spends 0.055

percent of its useful life on the highway. Thus, it is contended that mobile homes are not “manufactured primarily for use on the public streets, roads, and highways” and hence are not “motor vehicles” for purposes of the Act.

The undisputed fact is that mobile homes as their name implies, are constructed with a view towards over-the-road operations; their capability for travel on public highways is their principal advantage over fixed-site structures. Further, no one denies that mobile homes can present a significant safety hazard when they perform that function.

The Administrator views his conclusion that a mobile home towed on its own wheels is a motor vehicle as being consistent with the criteria expressed in the opinion on mini-bikes published October 3, 1969 (34 F.R. 15416). It is noteworthy that many States in significant ways accord mobile homes the same treatment as conventional motor vehicles. Registration, licensing, or other permission for use on the public roads is generally required. A number of jurisdictions have standards for mobile home lighting, braking, hitching, tire loading, and axle number and location.

Not only is a mobile home towed on its own wheels operationally capable of being used on public thoroughfares, it is almost exclusively so used in traveling from plant to dealer to owner site. Even assuming an infrequent move for the average mobile home, mobile homes as a class are found with increasing frequency on the public roads; industry production in 1967 was 240,000 units and the estimate for 1969 production was 400,000 units. The demand for low-cost housing makes the industry optimistic that there will be similar increases in years to come.

Clearly, when on the public highways, a mobile home towed on its own wheels will present a hazard if its tires, brakes, connection to the towing vehicle, and other factors affecting road-worthiness and traffic safety do not meet minimum standards. While some States, in recognition of this problem, have adopted their own safety standards, the Administrator believes that the decision published today may result in eventual uniformity of safety standards for mobile homes, and for that reason should be welcomed both by the motoring public and by the industry.

The current definition of trailer in § 571.3(b) is sufficient to encompass mobile homes. Yet, because of its size (10 to 14 feet in overall width), construction (a walled and roofed structure), and purpose (general off-road dwelling or commercial use) a mobile home is different from a conventional cargo or travel trailer. Separation by subclassification will allow exclusion of mobile homes from future rulemaking actions relating to trailers which may be inappropriate for mobile homes.

The sole standard presently applicable to trailers (No. 108-Lamps, Reflective Devices, and Associated Equipment) continues to be considered appropriate for mobile homes. In recognition of the limited road use of mobile homes,

manufacturers have been advised for some time that compliance may be achieved by use of a lighting harness removable upon completion of transit.

The Administrator believes that mobile homes, offices, classrooms, etc. or modular portions thereof, should be termed mobile structures. In consideration of the foregoing, 49 CFR 571.3(b) is hereby amended effective immediately to add the following:

"Mobile structure trailer" means a trailer that has a roof and walls, is at least 10 feet wide, and can be used offroad for dwelling or commercial purposes.

Since this amendment merely establishes a subcategory of trailer without imposing any additional burden on any person I find that notice and public procedure are unnecessary and that good cause exists for making it effective on less than 30 days notice.

Issued on March 20, 1970.

F. C. Turner,
Federal Highway Administrator.

35 F.R. 5333
March 31, 1970

PREAMBLE TO AMENDMENT TO PART 571

Subpart A—General “Fixed Collision Barrier” (Docket No. 69-26)

On December 24, 1969, a proposal to amend § 571.3, *Definitions*, of Title 49, Code of Federal Regulations, by adding a definition for “Fixed collision barrier” was published in the *Federal Register* (34 F.R. 20212). The proposed definition was intended to replace present references in the motor vehicle safety standards to SAE Recommended Practice J850, “Barrier Collision Tests,” and to be used in future standards containing performance requirements tested by impacting a vehicle into a stationary barrier.

The intent of the definition is to establish a firm basis upon which performance characteristics of a vehicle may be measured and the requirements of the standards enforced. Such a definition allows manufacturers to have flexibility in constructing barriers and testing their vehicles, since the focus is on the vehicle requirements rather than on the test equipment.

The core of the definition is that the barrier absorbs “no significant portion of the vehicle’s kinetic energy”. It should be remembered that this is not intended to be a description of an actual test barrier. It is a device used in various standards to establish required quantitative performance levels of a vehicle in a crash situation, and means simply that the vehicle must meet the requirement no matter how small an amount of energy is absorbed by the barrier.

So viewed, the comment that the use of the word “significant” injects an element of subjectivity into the definition is without merit. The question whether an amount of energy absorbed by a barrier is significant is to be answered by comparing it with the extent to which the vehicle exceeds the performance requirement. A vehicle that exceeds the require-

ments by 50 percent, for example, when impacted into a barrier that absorbs less than 1 percent of its kinetic energy, will probably meet the requirements in any case. Obversely, if a vehicle exceeds the requirements by an amount on the order of only 1 percent when tested, energy absorption of the same order will cast doubt on the validity of the test or the conformity of the vehicle. Thus, it would be inconsistent with the purposes of the definition to follow the suggestion that was made of allowing a specified percentage of energy absorption such as 1 percent. Furthermore, it would be necessary for the Bureau to test vehicles against a barrier that absorbed at least 1 percent of the energy in each case, in order to conclusively establish nonconformity. Since the precise amounts of energy absorbed in an impact are virtually impossible to establish, this would be a serious hindrance to enforcement of the standards.

It was suggested that the definition allow a plywood facing material to be used on a barrier. It is not necessary, however, to make such a specification, since no construction method whatever is prescribed, and manufacturers may use such facings or other materials as they see fit. Their responsibility is simply to insure that their vehicles will meet the performance requirements when they are impacted into a barrier whose energy absorption approaches zero.

One comment requested that the first paragraph be changed to make it clear that the dimensions of the barrier need not be such as to prevent the passage of parts of the vehicle that become separated during impact. Presumably the passage of separated parts mentioned by the commenter would not affect the measured per-

Effective: September 1, 1970

formance (steering wheel displacement, wind-shield retention, etc.). If it would not affect the performance, then the vehicle would perform in the same way when it impacted an "infinitely large" barrier, and such a provision would be unnecessary. If it would affect performance, then the provision would be inappropriate, since the point of the definition is to eliminate ambiguity by requiring the vehicle to meet the requirements upon impact with a barrier large enough to intercept the entire vehicle. The suggestion has therefore not been adopted.

A comment questioned the phrase "level vehicle attitude" in the second paragraph of the proposal. The intent of this paragraph was not to impose requirements as to vehicle attitude on a horizontal surface, but to specify a horizontal

approach surface large enough to allow complete damping of transient transverse or vertical vehicle motion. The paragraph has accordingly been reworded to specify that the approach surface be large enough for the vehicle to "attain a stable attitude" during the approach.

The third paragraph has been editorially reworded for clarification without change in its substance or intent.

Issued on July 8, 1970.

Douglas W. Toms,
Director,
National Highway Safety Bureau.

35 F.R. 11242
July 14, 1970

PREAMBLE TO AMENDMENT TO PART 571

Subpart A—General

"Fixed Collision Barrier"

(Docket No. 69-26)

On December 24, 1969, a proposal to amend § 571.3, *Definitions*, of Title 49, Code of Federal Regulations, by adding a definition for "Fixed collision barrier" was published in the *Federal Register* (34 F.R. 20212). The proposed definition was intended to replace present references in the motor vehicle safety standards to SAE Recommended Practice J850, "Barrier Collision Tests," and to be used in future standards containing performance requirements tested by impacting a vehicle into a stationary barrier.

The intent of the definition is to establish a firm basis upon which performance characteristics of a vehicle may be measured and the requirements of the standards enforced. Such a definition allows manufacturers to have flexibility in constructing barriers and testing their vehicles, since the focus is on the vehicle requirements rather than on the test equipment.

The core of the definition is that the barrier absorbs "no significant portion of the vehicle's kinetic energy". It should be remembered that this is not intended to be a description of an actual test barrier. It is a device used in various standards to establish required quantitative performance levels of a vehicle in a crash situation, and means simply that the vehicle must meet the requirement no matter how small an amount of energy is absorbed by the barrier.

So viewed, the comment that the use of the word "significant" injects an element of subjectivity into the definition is without merit. The question whether an amount of energy absorbed by a barrier is significant is to be answered by comparing it with the extent to which the vehicle exceeds the performance requirement. A vehicle that exceeds the require-

ments by 50 percent, for example, when impacted into a barrier that absorbs less than 1 percent of its kinetic energy, will probably meet the requirements in any case. Obversely, if a vehicle exceeds the requirements by an amount on the order of only 1 percent when tested, energy absorption of the same order will cast doubt on the validity of the test or the conformity of the vehicle. Thus, it would be inconsistent with the purposes of the definition to follow the suggestion that was made of allowing a specified percentage of energy absorption such as 1 percent. Furthermore, it would be necessary for the Bureau to test vehicles against a barrier that absorbed at least 1 percent of the energy in each case, in order to conclusively establish nonconformity. Since the precise amounts of energy absorbed in an impact are virtually impossible to establish, this would be a serious hindrance to enforcement of the standards.

It was suggested that the definition allow a plywood facing material to be used on a barrier. It is not necessary, however, to make such a specification, since no construction method whatever is prescribed, and manufacturers may use such facings or other materials as they see fit. Their responsibility is simply to insure that their vehicles will meet the performance requirements when they are impacted into a barrier whose energy absorption approaches zero.

One comment requested that the first paragraph be changed to make it clear that the dimensions of the barrier need not be such as to prevent the passage of parts of the vehicle that become separated during impact. Presumably the passage of separated parts mentioned by the commenter would not affect the measured per-

Effective: September 1, 1970

formance (steering wheel displacement, wind-shield retention, etc.). If it would not affect the performance, then the vehicle would perform in the same way when it impacted an "infinitely large" barrier, and such a provision would be unnecessary. If it would affect performance, then the provision would be inappropriate, since the point of the definition is to eliminate ambiguity by requiring the vehicle to meet the requirements upon impact with a barrier large enough to intercept the entire vehicle. The suggestion has therefore not been adopted.

A comment questioned the phrase "level vehicle attitude" in the second paragraph of the proposal. The intent of this paragraph was not to impose requirements as to vehicle attitude on a horizontal surface, but to specify a horizontal

approach surface large enough to allow complete damping of transient transverse or vertical vehicle motion. The paragraph has accordingly been reworded to specify that the approach surface be large enough for the vehicle to "attain a stable attitude" during the approach.

The third paragraph has been editorially reworded for clarification without change in its substance or intent.

Issued on July 8, 1970.

Douglas W. Toms,
Director,
National Highway Safety Bureau.

35 F.R. 11242

July 14, 1970

PREAMBLE TO AMENDMENT TO PART 571

Subpart A—General

"Definitions"

The purpose of this notice is to amend Subpart A, General, of Part 571, Federal Motor Vehicle Safety Standards, in Title 49, Code of Federal Regulations, by adding certain definitions and an explanatory section with respect to drafting usage in the standards and regulations issued under the National Traffic and Motor Vehicle Safety Act.

1. A problem that arises frequently in the drafting and interpretation of standards is expression of the concept that a vehicle or item of equipment must meet specified requirements within a range of values, or in connection with all the items in a set, not simultaneously, but at whatever point within the range or with whatever item in the set the Administration selects for testing. Normal English usage describes this concept by use of the word "any," as in the following examples: "The vehicle must meet the requirements of S4.1 when tested at any point between 18 and 22 inches above the ground." "Each tire shall be capable of meeting the requirements of this standard when mounted on any rim specified by the manufacturer as suitable for use with that tire."

The interpretive difficulty arises because, although the requirements of the standards are drafted as descriptions of the limits within which the Administration will test the vehicles and equipment to which the standards apply, some members of the public fail to recognize this, and tend to view the standards (erroneously) as descriptions of the tests that manufacturers must perform. Thus, in the above ex-

amples, persons may mistakenly consider the requirement as requiring only that the vehicle must meet the requirements at some one point between 18 and 22 inches from the ground, or that a tire need only meet the requirements when mounted on a particular one of the rims recommended by the manufacturer. To correct any such misconceptions, and to simplify the drafting and interpretation of standards and regulations, an explanatory section is hereby added to the "General" subpart of Part 571.

2. To simplify the drafting and organization of standards and regulations, definitions are hereby added to the list in 49 CFR 571.3 for the terms "longitudinal" or "longitudinally," "gross vehicle weight rating" or "GVWR," "gross axle weight rating" or "GAWR," "gross combination weight rating" or "GCWR," and "unloaded vehicle weight."

Since these amendments are clarifying and interpretative in nature, notice and public procedure thereon are unnecessary, and they are effective upon publication in the *Federal Register* (2-5-71).

In consideration of the foregoing, Subpart A, General, of Part 571, Federal Motor Vehicle Safety Standards, in Title 49, Code of Federal Regulations, is amended. . . .

Issued on February 2, 1971.

Douglas W. Toms,
Acting Administrator.

36 F.R. 2511
February 5, 1971

PREAMBLE TO AMENDMENT TO PART 571

Subpart A—General

"Definitions"

The purpose of this notice is to amend Subpart A, General, of Part 571, Federal Motor Vehicle Safety Standards, in Title 49, Code of Federal Regulations, by adding certain definitions and an explanatory section with respect to drafting usage in the standards and regulations issued under the National Traffic and Motor Vehicle Safety Act.

1. A problem that arises frequently in the drafting and interpretation of standards is expression of the concept that a vehicle or item of equipment must meet specified requirements within a range of values, or in connection with all the items in a set, not simultaneously, but at whatever point within the range or with whatever item in the set the Administration selects for testing. Normal English usage describes this concept by use of the word "any," as in the following examples: "The vehicle must meet the requirements of S4.1 when tested at any point between 18 and 22 inches above the ground." "Each tire shall be capable of meeting the requirements of this standard when mounted on any rim specified by the manufacturer as suitable for use with that tire."

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amples, persons may mistakenly consider the requirement as requiring only that the vehicle must meet the requirements at some one point between 18 and 22 inches from the ground, or that a tire need only meet the requirements when mounted on a particular one of the rims recommended by the manufacturer. To correct any such misconceptions, and to simplify the drafting and interpretation of standards and regulations, an explanatory section is hereby added to the "General" subpart of Part 571.

2. To simplify the drafting and organization of standards and regulations, definitions are hereby added to the list in 49 CFR 571.3 for the terms "longitudinal" or "longitudinally," "gross vehicle weight rating" or "GVWR," "gross axle weight rating" or "GAWR," "gross combination weight rating" or "GCWR," and "unloaded vehicle weight."

Since these amendments are clarifying and interpretative in nature, notice and public procedure thereon are unnecessary, and they are effective upon publication in the *Federal Register* (2-5-71).

In consideration of the foregoing, Subpart A, General, of Part 571, Federal Motor Vehicle Safety Standards, in Title 49, Code of Federal Regulations, is amended. . . .

Issued on February 2, 1971.

Douglas W. Toms,
Acting Administrator.

36 F.R. 2511
February 5, 1971

PREAMBLE TO AMENDMENT TO PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

(Docket No. 71-8; Notice 2)

The purpose of this notice is to amend section 571.3(b) to add a definition of "firefighting vehicle," and to add new section 571.8 to provide for delayed effective dates of future standards to which firefighting vehicles must conform.

The notice of proposed amendment upon which this amendment is based was published in the *Federal Register* on April 16, 1971, (36 F.R. 7259). This amendment is responsive to the potential problems of manufacturers of firefighting vehicles that may be caused if Federal motor vehicle safety standards are issued after purchase contracts are signed, to be effective before the manufacture of the vehicles in question is completed. As noted in the prior notice, many of these vehicles are custom-built to the buyer's specifications and require up to 18 months or more to complete after the contract is signed, and the buyer, typically a unit of municipal government, is often not in a position to renegotiate the contract and appropriate additional funds. The amendment specifies that the effective date for any standard or amendment of a standard to which a firefighting vehicle must conform shall

be 2 years after the date that notice of such standard or amendment is published in the *Federal Register*, or the effective date specified in the notice, whichever is later, unless such standard or amendment otherwise specifically provides with respect to firefighting vehicles. This will assure manufacturers and buyers that the vehicles for which contracts are signed need only conform to standards on which the final rules have been issued at the time the contract is signed, as long as the vehicles are completed within 2 years of the signing date.

No objections to the proposal were received.

In consideration of the foregoing, 49 CFR 571 is amended

Effective date: September 1, 1971.

Issued on July 21, 1971.

Douglas W. Toms
Acting Administrator

**36 F.R. 13926
July 28, 1971**

**PREAMBLE TO AMENDMENT TO PART 571—FEDERAL MOTOR VEHICLE
SAFETY STANDARDS**

(Docket No. 71-8; Notice 2)

The purpose of this notice is to amend section 571.3(b) to add a definition of "firefighting vehicle," and to add new section 571.8 to provide for delayed effective dates of future standards to which firefighting vehicles must conform.

The notice of proposed amendment upon which this amendment is based was published in the *Federal Register* on April 16, 1971, (36 F.R. 7259). This amendment is responsive to the potential problems of manufacturers of firefighting vehicles that may be caused if Federal motor vehicle safety standards are issued after purchase contracts are signed, to be effective before the manufacture of the vehicles in question is completed. As noted in the prior notice, many of these vehicles are custom-built to the buyer's specifications and require up to 18 months or more to complete after the contract is signed, and the buyer, typically a unit of municipal government, is often not in a position to renegotiate the contract and appropriate additional funds. The amendment specifies that the effective date for any standard or amendment of a standard to which a firefighting vehicle must conform shall

be 2 years after the date that notice of such standard or amendment is published in the *Federal Register*, or the effective date specified in the notice, whichever is later, unless such standard or amendment otherwise specifically provides with respect to firefighting vehicles. This will assure manufacturers and buyers that the vehicles for which contracts are signed need only conform to standards on which the final rules have been issued at the time the contract is signed, as long as the vehicles are completed within 2 years of the signing date.

No objections to the proposal were received.

In consideration of the foregoing, 49 CFR 571 is amended

Effective date: September 1, 1971.

Issued on July 21, 1971.

Douglas W. Toms
Acting Administrator

36 F.R. 13926
July 28, 1971

PREAMBLE TO AMENDMENT TO PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

This notice amends the definition of "Gross axle weight rating" to reflect more clearly the intended meaning of the phrase.

Gross axle weight rating is defined in 49 CFR 571.3 as follows:

"Gross axle weight rating" or "GAWR: means the value specified by the vehicle manufacturer as the loaded weight on a single axle measured at the tire-ground interfaces.

GAWR, as it has been interpreted by this agency in response to questions from interested persons, is intended to reflect the load carrying capacity of the axle system, and not necessarily the actual load that they may be imposed on an axle system by a vehicle in use. The capacity should normally be at least equal to the imposed load, of course, but it may exceed the imposed load to any extent desired by the vehicle manufacturer.

In order to express this intent more clearly, the definition of "Gross axle weight rating" in 49 CFR § 571.3, Definitions, is hereby amended.

Effective date: February 12, 1972.

Since this amendment is interpretative in nature, and reflects current understanding and practice, it is found for good cause that notice and public procedure thereon are unnecessary, and that an immediate effective date is in the public interest.

This amendment is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1407, and the delegation of authority at 49 CFR 1.51.

Issued on February 8, 1972.

Douglas W. Toms
Administrator

37 F.R. 3185
February 12, 1972

PREAMBLE TO AMENDMENT TO PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

This notice amends the definition of "Gross axle weight rating" to reflect more clearly the intended meaning of the phrase.

Gross axle weight rating is defined in 49 CFR 571.3 as follows:

"Gross axle weight rating" or "GAWR: means the value specified by the vehicle manufacturer as the loaded weight on a single axle measured at the tire-ground interfaces.

GAWR, as it has been interpreted by this agency in response to questions from interested persons, is intended to reflect the load carrying capacity of the axle system, and not necessarily the actual load that they may be imposed on an axle system by a vehicle in use. The capacity should normally be at least equal to the imposed load, of course, but it may exceed the imposed load to any extent desired by the vehicle manufacturer.

In order to express this intent more clearly, the definition of "Gross axle weight rating" in 49 CFR § 571.3, Definitions, is hereby amended.

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Issued on February 8, 1972.

Douglas W. Toms
Administrator

37 F.R. 3185
February 12, 1972

PREAMBLE TO AMENDMENT TO PART 571

Subpart A—General

"Definitions"

This notice extends the applicability of the definitions used in the Federal Motor Vehicle Safety Standards to other regulations contained in Chapter V of Title 49, Code of Federal Regulations, and deletes the definitions of "Gross axle weight rating" and "Gross vehicle weight rating" from the regulations governing vehicles manufactured in two or more stages.

49 CFR 571.3(b) contains the definitions used in the Federal Motor Vehicle Safety Standards. Some of the regulations other than standards contain their own definition sections defining terms unique to the regulation, and otherwise incorporating by reference the definitions of Part 571. An example of this is the definition section in the Certification Regulation, 49 CFR 567.3: "All terms that are defined in the Act and the rules and standards issued under its authority are used as defined therein." However, there is no reverse applicability of 49 CFR 571.3(b), which applies only to terms "as used in this part." One result has been that duplicate definitions appear in certain regulations, specifically, the identical definitions of "Gross axle weight rating" and "Gross vehicle weight rating" found in both Part 571 and the regulation on Vehicles Manufactured in Two or More Stages, Part 568. To prevent unnecessary duplication and the possibility of

confusion in the future, the Administration has determined that the definitions used in Part 571 should apply to all regulations in Chapter V, and also that Part 568 should be amended by deleting the definitions of "Gross axle weight rating" and "Gross vehicle weight rating." In consideration of the foregoing 49 CFR 571.3(b) is amended...

Effective date: June 1, 1972. Since this amendment is administrative and interpretive in nature and imposes no additional burden upon any person, notice and public procedure thereon is unnecessary and it may be made effective in less than 30 days after publication in the *Federal Register*.

This notice is issued under the authority of section 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407), and the delegation of authority from the Secretary of Transportation to the National Highway Traffic Safety Administration 49 CFR 1.51.

Issued on May 9, 1972.

Douglas W. Toms
Administrator

37 F.R. 10938
June 1, 1972

PREAMBLE TO AMENDMENT TO PART 571

Subpart A—General

"Definitions"

This notice extends the applicability of the definitions used in the Federal Motor Vehicle Safety Standards to other regulations contained in Chapter V of Title 49, Code of Federal Regulations, and deletes the definitions of "Gross axle weight rating" and "Gross vehicle weight rating" from the regulations governing vehicles manufactured in two or more stages.

49 CFR 571.3(b) contains the definitions used in the Federal Motor Vehicle Safety Standards. Some of the regulations other than standards contain their own definition sections defining terms unique to the regulation, and otherwise incorporating by reference the definitions of Part 571. An example of this is the definition section in the Certification Regulation, 49 CFR 567.3: "All terms that are defined in the Act and the rules and standards issued under its authority are used as defined therein." However, there is no reverse applicability of 49 CFR 571.3(b), which applies only to terms "as used in this part." One result has been that duplicate definitions appear in certain regulations, specifically, the identical definitions of "Gross axle weight rating" and "Gross vehicle weight rating" found in both Part 571 and the regulation on Vehicles Manufactured in Two or More Stages, Part 568. To prevent unnecessary duplication and the possibility of

confusion in the future, the Administration has determined that the definitions used in Part 571 should apply to all regulations in Chapter V, and also that Part 568 should be amended by deleting the definitions of "Gross axle weight rating" and "Gross vehicle weight rating." In consideration of the foregoing 49 CFR 571.3(b) is amended...

Effective date: June 1, 1972. Since this amendment is administrative and interpretive in nature and imposes no additional burden upon any person, notice and public procedure thereon is unnecessary and it may be made effective in less than 30 days after publication in the *Federal Register*.

This notice is issued under the authority of section 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407), and the delegation of authority from the Secretary of Transportation to the National Highway Traffic Safety Administration 49 CFR 1.51.

Issued on May 9, 1972.

Douglas W. Toms
Administrator

37 F.R. 10938
June 1, 1972

PREAMBLE TO AMENDMENT TO PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS**Subpart A—General**

This notice deletes the definition of "Occupant" from the general definitions applicable to the Federal motor vehicle standards.

At present, "Occupant" is defined in § 571.3 Definitions, (applicable to all standards) as "a person or manikin seated in the vehicle, and, unless otherwise specified in an individual standard, having the dimensions and weight of the 95th percentile adult male." However, where the word "occupant" is used in this chapter, the weight has generally been specified if it is a necessary part of the requirement. Thus, the definition is superfluous. Moreover, in instances where the use of a weight other than that of a 95th percentile male is assumed, the definition could be misleading.

Since this amendment is clarifying and interpretative in nature, and does not affect any requirements, notice and public procedure thereon are found to be unnecessary.

Accordingly, 49 CFR § 571.3(b) is hereby amended by deleting the definition of "occupant".

Effective date: April 1, 1973.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1407; delegation of authority at 49 CFR 1.51.)

Issued on February 23, 1973.

Douglas W. Toms
Administrator

38 F.R. 5636
March 2, 1973

PREAMBLE TO AMENDMENT TO PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS**Subpart A—General**

This notice deletes the definition of "Occupant" from the general definitions applicable to the Federal motor vehicle standards.

At present, "Occupant" is defined in § 571.3 Definitions, (applicable to all standards) as "a person or manikin seated in the vehicle, and, unless otherwise specified in an individual standard, having the dimensions and weight of the 95th percentile adult male." However, where the word "occupant" is used in this chapter, the weight has generally been specified if it is a necessary part of the requirement. Thus, the definition is superfluous. Moreover, in instances where the use of a weight other than that of a 95th percentile male is assumed, the definition could be misleading.

Since this amendment is clarifying and interpretative in nature, and does not affect any requirements, notice and public procedure thereon are found to be unnecessary.

Accordingly, 49 CFR § 571.3(b) is hereby amended by deleting the definition of "occupant".

Effective date: April 1, 1973.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1407; delegation of authority at 49 CFR 1.51.)

Issued on February 23, 1973.

Douglas W. Toms
Administrator

38 F.R. 5636
March 2, 1973

PREAMBLE TO AMENDMENT TO PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS**Subpart A—General**

This notice amends the Federal Motor Vehicle Safety Standards, 49 CFR Part 571, by removing the general provision excepting motor vehicles of 1,000 pounds or less curb weight other than trailers and motorcycles (hereafter referred to as "lightweight vehicles") from the applicability of the safety standards.

The NHTSA published a notice of proposed rule making on August 16, 1972 (37 F.R. 16553) proposing that the motor vehicle safety standards apply to all vehicles regardless of weight. Comments generally favored the proposal. Those who opposed the proposal expressed concern that standards compliance would hinder development of small urban vehicles. It was recommended that different performance requirements be adopted for lightweight passenger cars in some areas of the standards, such as those related to structural crashworthiness. One commenter requested that exemption not be discontinued, but be made available for vehicles with a curb weight of up to 1500 pounds.

The NHTSA has determined that the general exception of lightweight vehicles from conformity with the standards can no longer be justified, and is hereby amending 49 CFR § 571.7(a) to remove it. In so doing, it is mindful of the potential effect of this action upon the development of small, economical vehicles. As it observed in the notice:

"It remains true that vehicles in this weight class have inherent disadvantages in meeting standards requiring, for example, structural strength or considerable crush distance. Many other important standards, on the other hand, such as those on lighting, braking, and glazing, should be attainable by lightweight vehicles virtually as easily as by heavier ones. It thus

appears in the public interest to consider the needs and problems of lightweight vehicles on a standard-by-standard basis (as is presently done in the case of heavy vehicles, which receive differential treatment in several standards), rather than by an across-the-board exception."

A manufacturer has the option of petitioning for amendment of any standard it feels is impracticable or inappropriate for lightweight vehicles. Alternatively, it may be eligible to petition for temporary exemption from one or more standards upon one of the bases provided in Section 123 of the National Traffic and Motor Vehicle Safety Act (Pub. L. 92-548).

An additional comment concerned the inequity in treatment between three- and four-wheeled vehicles, the former categorized as "motorcycles" for purposes of the standards and required to comply with fewer standards. By a separate notice published today (38 F.R. 12818) the NHTSA is seeking to correct this inequity by proposing a redefinition of "motorcycle" which would exclude most three-wheeled vehicles.

In consideration of the foregoing, 49 CFR 571.7(a) is revised. . . .

Effective date: January 1, 1974.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1407; delegation of authority at 38 F.R. 12147).

Issued on May 10, 1973.

James E. Wilson
Associate Administrator
Traffic Safety Programs

38 F.R. 12808

May 16, 1973

PREAMBLE TO AMENDMENT TO PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS**Subpart A—General**

This notice amends the Federal Motor Vehicle Safety Standards, 49 CFR Part 571, by removing the general provision excepting motor vehicles of 1,000 pounds or less curb weight other than trailers and motorcycles (hereafter referred to as "lightweight vehicles") from the applicability of the safety standards.

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In consideration of the foregoing, 49 CFR 571.7(a) is revised. . . .

Effective date: January 1, 1974.

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Issued on May 10, 1973.

James E. Wilson
Associate Administrator
Traffic Safety Programs

38 F.R. 12808
May 16, 1973

PREAMBLE TO AMENDMENT TO PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Subpart A—General

(Docket No. 73-12; Notice 2)

This notice amends 49 CFR 571.3(b), Definitions, of the Federal motor vehicle safety standards, by revising the definition of "motorcycle".

The NHTSA proposed in the *Federal Register* on May 16, 1973 (38 F.R. 12818) that a "motorcycle" be defined as a "two-wheeled motor vehicle with motive power, or a three-wheeled motor vehicle with motive power and without a full or partial passenger enclosure".

Interested persons have been afforded an opportunity to participate in the making of this amendment and due consideration has been given to all comments received in response to the notice, insofar as they relate to matters within its scope.

The issue raised most frequently in the comments was the concern that the addition of a sidecar to a two-wheeled motorcycle would create a combination vehicle not classifiable as a "motorcycle". The NHTSA considers a sidecar to be an item of motor vehicle equipment which, when added to a two-wheeled vehicle, does not change that vehicle's original classification as a "motorcycle".

As the agency had anticipated, comments were submitted by manufacturers and potential manufacturers of three-wheeled vehicles that would be excluded from categorization as "motorcycles". These commenters generally objected to the imposition of passenger car and truck standards on their vehicles, on the grounds that these are inappropriate for low-speed lightweight vehicles. One manufacturer argued that it could not meet seating and restraint requirements. Others suggested that a special category be established for three-wheelers. To one commenter, the options of petitioning for amendment of "inappropriate" standards, or for temporary

exemption from "appropriate" ones pending compliance did not appear to offer an adequate solution, arguing that it represented "a lengthy procedure with doubtful outcome".

Only one petition has been received for amendment of standards applicable to lightweight or three-wheeled vehicles, and pending its resolution no separate categories or special requirements for these vehicles have been established. Under the certification scheme imposed by the National Traffic and Motor Vehicle Safety Act, a manufacturer has the responsibility of determining whether his vehicle meets the Federal standards, and petitioning if an appropriate change appears necessary. The NHTSA believes that the goals of motor vehicle safety in this area are more likely to be realized by consideration of problems with the standards as they are raised by individual manufacturers, than by attempting to establish a comprehensive regulatory scheme for lightweight vehicles on the basis of the scanty data presently available.

The definition that NHTSA proposed was opposed on substantive grounds as well. Several commenters said the phrase "partial passenger enclosure" was ambiguous and would create problems of interpretation. It was suggested that reference be made to such characteristics of two-wheeled motorcycles as saddle seating and handlebars. The agency has decided that these comments have merit, and that a definition of "motorcycle" should emphasize features of three-wheeled vehicles to be included in the definition, rather than those to be excluded. Accordingly the definition is being adopted that three-wheeled motorcycles are those "utilizing a handlebar for steering and having a seat that is straddled by the driver".

Effective: September 1, 1974

The NHTSA considers the adoption of this amendment dispositive of recent petitions of the Motorcycle Industry Council and Cushman Motors for a redefinition of "motorcycle", and to the extent that those requests differ from the definition adopted today the petitions are denied.

In consideration of the foregoing the definition of "Motorcycle" in 49 CFR 571.3(b) is revised....

Effective date: September 1, 1974.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1407; delegation of authority at 49 CFR 1.51)

Issued on November 19, 1973.

James B. Gregory
Administrator

38 F.R. 32580
November 27, 1973

PREAMBLE TO AMENDMENT TO PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS**Subpart A—General**

(Docket No. 73-12; Notice 2)

This notice amends 49 CFR 571.3(b), Definitions, of the Federal motor vehicle safety standards, by revising the definition of "motorcycle".

The NHTSA proposed in the *Federal Register* on May 16, 1973 (38 F.R. 12818) that a "motorcycle" be defined as a "two-wheeled motor vehicle with motive power, or a three-wheeled motor vehicle with motive power and without a full or partial passenger enclosure".

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Effective: September 1, 1974

The NHTSA considers the adoption of this amendment dispositive of recent petitions of the Motorcycle Industry Council and Cushman Motors for a redefinition of "motorcycle", and to the extent that those requests differ from the definition adopted today the petitions are denied.

In consideration of the foregoing the definition of "Motorcycle" in 49 CFR 571.3(b) is revised....

Effective date: September 1, 1974.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1407; delegation of authority at 49 CFR 1.51)

Issued on November 19, 1973.

James B. Gregory
Administrator

38 F.R. 32580
November 27, 1973

PREAMBLE TO AMENDMENT TO PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS**Subpart A—General****(Docket No. 73-12; Notice 3)**

This notice responds to petitions for reconsideration of the recent redefinition of "motorcycle" (38 F.R. 32580), and amends 49 CFR 571.3(b), Definitions, by revoking that redefinition. In a notice issued today, the NHTSA has proposed an amendment to 49 CFR 571.3(b) that would redefine the vehicle category "motorcycle."

In a notice published on May 16, 1973, (38 F.R. 12818) the NHTSA proposed that a "motorcycle" be defined as "a two-wheeled motor vehicle with motive power, or a three-wheeled motor vehicle with motive power and without a full or partial passenger enclosure." On the basis of comments received, on November 27, 1973, (38 F.R. 32580) 49 CFR 571.3(b) was amended, effective September 1, 1974, to define "motorcycle" as a "two-wheeled motor vehicle with motive power, a handlebar for steering, and a seat that is straddled by the driver." This definition is being revoked in light of the agency's decision to propose a new definition, leaving the original definition in force pending further rulemaking action.

Petitions for reconsideration were submitted by White Motor Corporation, EVI, Inc., Otis Elevator, and Cushman Motors, all of whom objected to the revised definition. Cushman Motors, Otis Elevator, and EVI, Inc. argued that the revised definition was inappropriate in that no safety need had been demonstrated to warrant its adoption. The NHTSA does not agree with this contention. Safety demands that the existing standards apply to vehicle types which have similar characteristics and end uses. For instance, vehicles that are used as passenger cars and whose configurations display basic passenger car characteristics should, in the interest of safety, be subject to passenger car standards.

Cushman Motors and Otis Elevator asserted that the effect of the revised definition, subjecting their three-wheeled vehicles to passenger car or truck standards, would be to force their vehicles out of production since it would be impossible for them to comply with the applicable safety standards. This issue was discussed in a notice published May 16, 1973, (38 F.R. 12808) removing the provision excepting motor vehicles of 1,000 pounds or less curb weight from the applicability of the safety standards. The NHTSA explained in that notice:

A manufacturer has the option of petitioning for amendment of any standard it feels is impracticable or inappropriate for lightweight vehicles. Alternatively, it may be eligible to petition for temporary exemption from one or more standards upon one of the bases provided in section 123 of the National Traffic and Motor Vehicle Safety Act (Public Law 92-548).

Petitioners' most substantial objection was that the definition excluded certain vehicles whose overall configurations are closer to those of motorcycles than of passenger cars or trucks, while including others for which regulation as motorcycles appears inappropriate. Petitioners argued that the presence of a steering wheel and a bench seat would subject a lightweight, unenclosed three-wheeled vehicle to passenger car or truck requirements, regardless of other characteristics which might render it more suited to regulation as a motorcycle. They contended that the definition also had the effect of allowing fully enclosed vehicles, if equipped with handlebars and a straddle seat, to meet only the requirements applicable to motorcycles regardless of their overall similarity to a passenger car or truck.

The NHTSA has concluded that some of these arguments have merit. Three-wheeled vehicles, though low in volume of production, span a variety of types that range from vehicles virtually identical to motorcycles forward of their rear axles to those that have every characteristic of small passenger cars except for the number of wheels on the ground. The most reasonable and appropriate dividing line appears to be one based on a vehicle feature crucial to the application of conventional passenger car or truck standards—an enclosed passenger compartment. The petition from White Motor Corporation suggested a definition that would divide motorcycles from other vehicle types on the basis of a passenger enclosure above the level of the handlebars. The NHTSA has concluded that the suggestion is meritorious, and it forms the basis for the proposed redefinition published today.

Several commenters objected to the amendment on grounds that it differed from the proposal (38 F.R. 12818). In light of the fact that the

redefinition is being revoked on the merits and a new definition is proposed, the NHTSA considers that issue moot.

In light of the foregoing, the definition of "motorcycle" in 49 CFR 571.3(b), *Definitions*, published November 27, 1973, (38 F.R. 32580), to be effective September 1, 1974, is hereby deleted.

Effective date: April 30, 1974. Since this action revokes an amendment that was not yet effective, it is found for good cause shown that an immediate effective date is in the public interest.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.51.)

Issued on April 24, 1974.

James B. Gregory
Administrator

39 F.R. 15039
April 30, 1974

PREAMBLE TO AMENDMENT TO PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS**Subpart A—General****(Docket No. 73-12; Notice 3)**

This notice responds to petitions for reconsideration of the recent redefinition of "motorcycle" (38 F.R. 32580), and amends 49 CFR 571.3(b), Definitions, by revoking that redefinition. In a notice issued today, the NHTSA has proposed an amendment to 49 CFR 571.3(b) that would redefine the vehicle category "motorcycle."

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Effective: April 30, 1974

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Several commenters objected to the amendment on grounds that it differed from the proposal (38 F.R. 12818). In light of the fact that the

redefinition is being revoked on the merits and a new definition is proposed, the NHTSA considers that issue moot.

In light of the foregoing, the definition of "motorcycle" in 49 CFR 571.3(b), *Definitions*, published November 27, 1973, (38 F.R. 32580), to be effective September 1, 1974, is hereby deleted.

Effective date: April 30, 1974. Since this action revokes an amendment that was not yet effective, it is found for good cause shown that an immediate effective date is in the public interest.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.51.)

Issued on April 24, 1974.

James B. Gregory
Administrator

39 F.R. 15039
April 30, 1974

PREAMBLE TO AMENDMENT TO PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS**Subpart A—General****(Docket No. 74-27; Notice 1)**

The purpose of this notice is to amend 49 CFR Part 571 by deleting § 571.11, Equivalent Demonstration Procedure, which refers to the substitution of test procedures by manufacturers for those prescribed in the safety standards.

Section 571.11, which was a part of the original procedural rules, provides that an "approved equivalent" demonstration procedure may be substituted for the testing procedure specified in a particular standard. The implication of this provision is that the manufacturer must obtain from the NHTSA approval of any testing procedures he intends to utilize that deviate from the procedures prescribed in the standards. This agency's interpretations of the National Traffic and Motor Vehicle Safety Act since the promulgation of § 571.11, however, are at variance with the requirement implied by that section.

The safety standards establish required performance levels for motor vehicles and motor vehicle equipment. The test procedures in the safety standards are simply objective ways of phrasing the performance requirements. Generally, they represent the procedures that will be followed by the agency in its compliance testing. The manufacturer is not legally obligated to follow these test procedures when determining

the compliance of his products for the purposes of certification. The legal requirement is that he exercise due care in assuring himself that his product is capable of meeting the performance requirements of applicable standards when tested in the manner prescribed. He may do this by whatever means he determines to be reliable and necessary.

Accordingly, 49 CFR Part 571 is amended by deleting § 571.11, Equivalent Demonstration Procedure.

Effective date: August 7, 1974. This amendment is clarifying and interpretative in nature, and it is therefore found for good cause shown that notice and public procedure are unnecessary, and that an immediate effective date is in the public interest.

(Sec. 103, 119 Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.51.)

Issued on August 2, 1974.

James B. Gregory
Administrator

39 F.R. 28437
August 7, 1974

PREAMBLE TO AMENDMENT TO PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS**Subpart A—General****(Docket No. 74-27; Notice 1)**

The purpose of this notice is to amend 49 CFR Part 571 by deleting § 571.11, Equivalent Demonstration Procedure, which refers to the substitution of test procedures by manufacturers for those prescribed in the safety standards.

Section 571.11, which was a part of the original procedural rules, provides that an "approved equivalent" demonstration procedure may be substituted for the testing procedure specified in a particular standard. The implication of this provision is that the manufacturer must obtain from the NHTSA approval of any testing procedures he intends to utilize that deviate from the procedures prescribed in the standards. This agency's interpretations of the National Traffic and Motor Vehicle Safety Act since the promulgation of § 571.11, however, are at variance with the requirement implied by that section.

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the compliance of his products for the purposes of certification. The legal requirement is that he exercise due care in assuring himself that his product is capable of meeting the performance requirements of applicable standards when tested in the manner prescribed. He may do this by whatever means he determines to be reliable and necessary.

Accordingly, 49 CFR Part 571 is amended by deleting § 571.11, Equivalent Demonstration Procedure.

Effective date: August 7, 1974. This amendment is clarifying and interpretative in nature, and it is therefore found for good cause shown that notice and public procedure are unnecessary, and that an immediate effective date is in the public interest.

(Sec. 103, 119 Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.51.)

Issued on August 2, 1974.

James B. Gregory
Administrator

39 F.R. 28437
August 7, 1974

PREAMBLE TO AMENDMENT TO PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

(Docket No. 75-9; Notice 2)

This notice amends 49 CFR 571.7, *Applicability*, by the addition of a new paragraph to specify the conditions under which a truck assembled by combining major new components with some used components will be considered used for the purpose of the motor vehicle safety standards, associated regulations, and the National Traffic and Motor Vehicle Safety Act.

The NHTSA proposed a modification of its existing interpretation of what constitutes the manufacture of a new motor vehicle when used components from an existing vehicle are involved (40 F.R. 19485, May 5, 1975). Up to this time, the NHTSA has considered that the addition of new components (such as a truck body) to the chassis of a used vehicle does not constitute the manufacture of a new vehicle, but that the addition of used components to a new chassis which has never been certified in a vehicle constitutes the manufacture of a new vehicle, subject to the safety standards in effect for that vehicle class on the date of manufacture. This criterion has been relied on in the area of chassis-cab multi-stage manufacture.

Two truck manufacturers, the American Trucking Associations and the National Automobile Dealers Association, requested reconsideration of this criterion, because the high value of some components of a chassis makes their reuse feasible although the entire chassis may not be reusable. They stressed the savings to an owner in combining a "glider kit" (typically a cab, frame rails, and front suspension) and the used power train of a wrecked or badly worn vehicle instead of purchasing a complete new vehicle from a truck manufacturer. Standard No. 121, *Air Brake Systems*, has heightened the importance of the question of what constitutes a new vehicle, since

bringing vehicles with pre-121 axles into conformity with the standard appears to be economically impracticable.

The NHTSA proposed a statement of what constitutes manufacture of a vehicle in these cases which agreed with the suggestions of the two petitioning manufacturers, International Harvester and White Motor Corporation. The agency considered it important that the retention of a minimum number of valuable used components be required as a justification in each case, and that retention of the identity of the used vehicle, with respect to model year and identification number, be required as evidence that the reassembly is a bona fide salvage operation, to avoid creating any undue economic incentives for evasion of Standard No. 121.

Manufacturers and users supported the clarification that permits the continued use of glider kits in combination with pre-121 rear axles, but International Harvester, Mack, PACCAR, Transpac, and the State of California objected to the second criterion that vehicles be identified as the old vehicle. The comments indicate that requiring the identity of the old vehicle to continue in the rebuilt vehicle would have real and unintended disadvantages in the area of vehicle registration by the States. As proposed by the NHTSA, the registration would reflect a vehicle identification number that would not appear on the new vehicle frame or in the new vehicle cab, with resulting difficulty in verifying the true identity of the vehicle. The external identification on the cab would, in many cases, also disagree with the vehicle identification documents. The NHTSA agrees that State registration practices to avoid this confusion should be supported

as long as the practice does not encourage the salvage of old vehicle components in order to avoid safety standards. Therefore, the NHTSA issues the provision in a form which includes only the requirement for at least two used drive train components.

Rockwell International cautioned the NHTSA against a decision that would encourage the re-use of unsafe components on the highway. The NHTSA always considers the possibility its regulations might encourage continued use of vehicles on the highway after they would normally be replaced. As in other cases, the NHTSA will monitor the effect of its decision on glider kits to ensure that their use without requiring compliance with all applicable standards does not result in a pattern of conscious avoidance of Standard No. 121 or other standards. In the event the agency should discover evidence of such abuse, it will move decisively to appropriately revise the new statement of applicability.

Oshkosh Truck Corporation and Mack Trucks, Inc., both suggested that the scope of the proposal be modified to broaden its coverage. Oshkosh concluded that because a new cab was mentioned, the provision would prohibit the use of used cabs in vehicle assembly operations. Mack believed that the term "glider kits" would better describe the rebuilding operations being described.

The NHTSA would like to make clear to Oshkosh and others that the proposed paragraph (e) is not intended to regulate all truck rebuilding operations, but only those in which so many major new components are utilized (such as a glider kit) that the vehicle is in many respects a newly-manufactured vehicle. This provision is intended to distinguish the legitimate rebuilding operation in which many new vehicle components are used from the typical assembly-line production of new vehicles. Oshkosh and other manufacturers may rebuild trucks with used components without falling under § 571.7(e).

In consideration of the foregoing, a new paragraph (e) is added to 49 CFR 571.7, *Applicability*

Effective date: October 22, 1975. Because this amendment has the effect of relaxing a requirement for the compliance of vehicles to applicable motor vehicle safety standards, it is found for good cause shown that an immediate effective date is in the public interest.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.51).

Issued on October 16, 1975.

Gene G. Mannella
Acting Administrator

40 F.R. 49340
October 22, 1975

PREAMBLE TO AMENDMENT TO PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

(Docket No. 75-9; Notice 2)

This notice amends 49 CFR 571.7, *Applicability*, by the addition of a new paragraph to specify the conditions under which a truck assembled by combining major new components with some used components will be considered used for the purpose of the motor vehicle safety standards, associated regulations, and the National Traffic and Motor Vehicle Safety Act.

The NHTSA proposed a modification of its existing interpretation of what constitutes the manufacture of a new motor vehicle when used components from an existing vehicle are involved (40 F.R. 19485, May 5, 1975). Up to this time, the NHTSA has considered that the addition of new components (such as a truck body) to the chassis of a used vehicle does not constitute the manufacture of a new vehicle, but that the addition of used components to a new chassis which has never been certified in a vehicle constitutes the manufacture of a new vehicle, subject to the safety standards in effect for that vehicle class on the date of manufacture. This criterion has been relied on in the area of chassis-cab multi-stage manufacture.

Two truck manufacturers, the American Trucking Associations and the National Automobile Dealers Association, requested reconsideration of this criterion, because the high value of some components of a chassis makes their reuse feasible although the entire chassis may not be reusable. They stressed the savings to an owner in combining a "glider kit" (typically a cab, frame rails, and front suspension) and the used power train of a wrecked or badly worn vehicle instead of purchasing a complete new vehicle from a truck manufacturer. Standard No. 121, *Air Brake Systems*, has heightened the importance of the question of what constitutes a new vehicle, since

bringing vehicles with pre-121 axles into conformity with the standard appears to be economically impracticable.

The NHTSA proposed a statement of what constitutes manufacture of a vehicle in these cases which agreed with the suggestions of the two petitioning manufacturers, International Harvester and White Motor Corporation. The agency considered it important that the retention of a minimum number of valuable used components be required as a justification in each case, and that retention of the identity of the used vehicle, with respect to model year and identification number, be required as evidence that the reassembly is a bona fide salvage operation, to avoid creating any undue economic incentives for evasion of Standard No. 121.

Manufacturers and users supported the clarification that permits the continued use of glider kits in combination with pre-121 rear axles, but International Harvester, Mack, PACCAR, Transpac, and the State of California objected to the second criterion that vehicles be identified as the old vehicle. The comments indicate that requiring the identity of the old vehicle to continue in the rebuilt vehicle would have real and unintended disadvantages in the area of vehicle registration by the States. As proposed by the NHTSA, the registration would reflect a vehicle identification number that would not appear on the new vehicle frame or in the new vehicle cab, with resulting difficulty in verifying the true identity of the vehicle. The external identification on the cab would, in many cases, also disagree with the vehicle identification documents. The NHTSA agrees that State registration practices to avoid this confusion should be supported

as long as the practice does not encourage the salvage of old vehicle components in order to avoid safety standards. Therefore, the NHTSA issues the provision in a form which includes only the requirement for at least two used drive train components.

Rockwell International cautioned the NHTSA against a decision that would encourage the re-use of unsafe components on the highway. The NHTSA always considers the possibility its regulations might encourage continued use of vehicles on the highway after they would normally be replaced. As in other cases, the NHTSA will monitor the effect of its decision on glider kits to ensure that their use without requiring compliance with all applicable standards does not result in a pattern of conscious avoidance of Standard No. 121 or other standards. In the event the agency should discover evidence of such abuse, it will move decisively to appropriately revise the new statement of applicability.

Oshkosh Truck Corporation and Mack Trucks, Inc., both suggested that the scope of the proposal be modified to broaden its coverage. Oshkosh concluded that because a new cab was mentioned, the provision would prohibit the use of used cabs in vehicle assembly operations. Mack believed that the term "glider kits" would better describe the rebuilding operations being described.

The NHTSA would like to make clear to Oshkosh and others that the proposed paragraph (e) is not intended to regulate all truck rebuilding operations, but only those in which so many major new components are utilized (such as a glider kit) that the vehicle is in many respects a newly-manufactured vehicle. This provision is intended to distinguish the legitimate rebuilding operation in which many new vehicle components are used from the typical assembly-line production of new vehicles. Oshkosh and other manufacturers may rebuild trucks with used components without falling under § 571.7(e).

In consideration of the foregoing, a new paragraph (e) is added to 49 CFR 571.7, *Applicability*

Effective date: October 22, 1975. Because this amendment has the effect of relaxing a requirement for the compliance of vehicles to applicable motor vehicle safety standards, it is found for good cause shown that an immediate effective date is in the public interest.

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Issued on October 16, 1975.

Gene G. Mannella
Acting Administrator

40 F.R. 49340
October 22, 1975

PREAMBLE TO AMENDMENT TO PART 571— FEDERAL MOTOR VEHICLE SAFETY STANDARDS

(Docket No. 75-24; Notice 2)

This notice amends the definition of "school bus" that appears in 49 CFR 571.3, to conform to the mandate of the Motor Vehicle and School-bus Safety Amendments of 1974 (The Act), Pub. L. 93-492, by expanding the present definition used by the NHTSA in establishing safety requirements.

The NHTSA's present definition of "school bus" (49 CFR 571.3) is based on the design of the vehicle:

"School bus" means a bus designed primarily to carry children to and from school, but not including buses operated by common carriers in urban transportation of school children.

The Act included a definition of "school bus" based on its usage for transporting students, instead of its design:

(14) "schoolbus" means a passenger motor vehicle which is designed to carry more than 10 passengers in addition to the driver, and which the Secretary determines is likely to be significantly used for the purpose of transporting primary, pre-primary, or secondary school students to or from such schools or events related to such schools;

The legislative history of the Act specifically emphasizes Congress' view that the existing definition based on vehicle design is too narrow and should be expanded to include vehicles likely to be used for school student transportation. H.R. Rep. No. 93-1191, 93rd Cong., 2d Session 42 (1974):

Your Committee decided that safety regulation should reach the wide variety of passenger motor vehicles which are actually and significantly used to transport students, not merely those which are primarily designed for this purpose.

The Congressional definition directs the NHTSA (by reference to a Secretarial determination) to establish a regulatory definition that encompasses a described category of bus used for student transportation. The NHTSA subsequently proposed a definition that would accomplish the Congressional intent within the regulatory and enforcement framework of the Act (40 FR 40854, September 4, 1975):

"School bus" means a bus which is equipped to carry more than 10 passengers in addition to the driver and which is sold, or introduced, or delivered for introduction in interstate commerce, for purposes that include carrying students to and from school or related events, but does not include buses designed and sold for operation as a common carrier in urban transportation.

Comments were received from manufacturers and users of school buses (and their associations), the States of Wisconsin and Montana, the California Department of Highway Patrol (CHP), the Vehicle Equipment Safety Commission (VESC), and Mr. George Chambers. The major issue in these comments was the degree to which the proposed definition conformed to Congressional intent. The Motor Vehicle Manufacturers Association (MVMA), Chrysler Corporation, International Harvester (IH), General Motors, and the State of Montana argued that the Congressional expectation of regulating most student-carrying 11-or-more-passenger motor vehicles on the basis of anticipated use could not be reasonably effectuated under the authority of the Act.

The Act provides that "no person shall . . . manufacture for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce . . . any motor vehicle . . . unless it is

in conformity with [applicable] standard[s]..." (15 U.S.C. § 1397(a)(1)(A)). This provision authorizes placement of responsibility on a seller for compliance with standards that apply to school buses. The Congressional definition clearly directs that the likely use of the vehicle as well as its design be considered in the determination of its status as a school bus. The NHTSA remains convinced that, of all the persons in the chain of distribution who are subject to the Act, the seller is most likely to have knowledge of the likely use of the vehicle.

In essence, the NHTSA proposed that "school bus" be defined as a bus that is sold for purposes that include student transportation. Thus the determination of vehicle classification, in close cases, can be made on the basis of the sales transaction. It would not, however, be based solely on an event that occurs after sale, such as the actual use of the vehicle. The MVMA and others assumed from a reference in the proposal to the "intent" of either party that the seller would be held responsible for the unexpressed intent of the purchaser to use the vehicle for student transportation, although this purpose was unknown to the seller. This is not the case. The seller is not held responsible for more than its knowledge of the purpose of the sale. If the seller has reason to believe that a vehicle will be used for student transportation, it can easily ascertain intended use by requesting a written statement of purpose from the purchaser.

The MVMA suggested that "school bus" be defined as a bus that is equipped for the purpose of carrying primary, pre-primary, or secondary school students to or from schools or related events. This definition falls short of the Congressional mandate to cover vehicles that are "likely to be significantly used for the purpose of transporting . . . students". For example, all buses purchased for more than a single purpose (e.g., student and faculty transportation) would be excluded from the definition and from coverage by the standards. Also the criterion "equipped for the purpose" of student transportation does not make clear what equipment (e.g., warning lights, school bus seating) would be determinative of the purpose. General Motors' suggested "designed or equipped for the pur-

pose" is also vague as to the meaning of what element of design or equipment would be determinative of the vehicle's classification.

General Motors and Wayne Corporation implied that it is unreasonable to hold manufacturers responsible for what happens to a vehicle in the hands of dealers. There is no intent to do this, however. A manufacturer or other entity in the chain of distribution is only to be held responsible for what it knows. If a vehicle is originally produced as a non-school vehicle (a van-type multipurpose passenger vehicle (MPV), for example), and subsequently is sold by a dealer for school transportation purposes, it is the dealer who will be held for any non-compliance with school bus standards, not the manufacturer. Actually, final-stage manufacturers (in some cases dealers) have always undertaken modification of tracks and MPV's that result in different requirements from the factory installation. This responsibility has not created an impossible burden on the original manufacturer.

Wayne suggested that "school bus" be defined to mean only those vehicles that a user or regulatory authority designates as a school bus by use of exterior identification such as a label or distinctive lighting or color. This criterion, like MVMA's, falls short of Congress' evident interest in any vehicle likely to be significantly used for student transportation. Evidently vehicles operated by private schools are not, in many cases, given the exterior identification markings suggested by Wayne.

In conforming its proposal to the Congressional definition, the NHTSA limited "school bus" to a bus that carries at least 11 passengers in addition to the driver. Based on comments received from Wayne and CHP, it appears that the definition should be expanded slightly to include buses that carry 10 passengers. This eliminates a departure from previous NHTSA vehicle categorization that classifies vehicles with 10 or fewer occupant seating positions as MPV's or passenger cars and vehicles with 11 or more seating positions as buses. To adhere strictly to the Congressional definition would leave the small group of vehicles that transport 10 students without coverage under either the school bus, the MPV, or the passenger car standards.

PREAMBLE TO AMENDMENT TO PART 571— FEDERAL MOTOR VEHICLE SAFETY STANDARDS

(Docket No. 75-24; Notice 2)

This notice amends the definition of "school bus" that appears in 49 CFR 571.3, to conform to the mandate of the Motor Vehicle and School-bus Safety Amendments of 1974 (The Act), Pub. L. 93-492, by expanding the present definition used by the NHTSA in establishing safety requirements.

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(14) "schoolbus" means a passenger motor vehicle which is designed to carry more than 10 passengers in addition to the driver, and which the Secretary determines is likely to be significantly used for the purpose of transporting primary, pre-primary, or secondary school students to or from such schools or events related to such schools;

The legislative history of the Act specifically emphasizes Congress' view that the existing definition based on vehicle design is too narrow and should be expanded to include vehicles likely to be used for school student transportation. H.R. Rep. No. 93-1191, 93rd Cong., 2d Session 42 (1974):

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Comments were received from manufacturers and users of school buses (and their associations), the States of Wisconsin and Montana, the California Department of Highway Patrol (CHP), the Vehicle Equipment Safety Commission (VESC), and Mr. George Chambers. The major issue in these comments was the degree to which the proposed definition conformed to Congressional intent. The Motor Vehicle Manufacturers Association (MVMA), Chrysler Corporation, International Harvester (IH), General Motors, and the State of Montana argued that the Congressional expectation of regulating most student-carrying 11-or-more-passenger motor vehicles on the basis of anticipated use could not be reasonably effectuated under the authority of the Act.

The Act provides that "no person shall . . . manufacture for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce . . . any motor vehicle . . . unless it is

in conformity with [applicable] standard[s]..." (15 U.S.C. § 1397(a)(1)(A)). This provision authorizes placement of responsibility on a seller for compliance with standards that apply to school buses. The Congressional definition clearly directs that the likely use of the vehicle as well as its design be considered in the determination of its status as a school bus. The NHTSA remains convinced that, of all the persons in the chain of distribution who are subject to the Act, the seller is most likely to have knowledge of the likely use of the vehicle.

In essence, the NHTSA proposed that "school bus" be defined as a bus that is sold for purposes that include student transportation. Thus the determination of vehicle classification, in close cases, can be made on the basis of the sales transaction. It would not, however, be based solely on an event that occurs after sale, such as the actual use of the vehicle. The MVMA and others assumed from a reference in the proposal to the "intent" of either party that the seller would be held responsible for the unexpressed intent of the purchaser to use the vehicle for student transportation, although this purpose was unknown to the seller. This is not the case. The seller is not held responsible for more than its knowledge of the purpose of the sale. If the seller has reason to believe that a vehicle will be used for student transportation, it can easily ascertain intended use by requesting a written statement of purpose from the purchaser.

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Some commenters incorrectly assumed that the Congressional definition of "school bus" established an outer limit on the NHTSA's authority to regulate vehicles that transport students as such. To the contrary, the Congressional definition is a direction to the NHTSA that the new standards in this area must not be applied to a narrower category of vehicle. As long as that direction of Congress is satisfied, the NHTSA is, however, authorized to decide the scope of its standards, and in this case to expand on the Congressional definition to implement the mandate effectively.

In response to Mr. George Chambers' concern that the NHTSA definition is too broad, the NHTSA considers it reasonable to regulate all buses significantly used for transportation of students to and from all schools and related events, not just pre-primary, primary, and secondary schools. The NHTSA concludes that its rewording of the Act's "schools or events related to such schools" as "schools or related events" does not contradict Congressional direction.

Wayne and the National School Transportation Association (NSTA) suggested that buses used in urban transportation must be included in the definition of "school bus" because they are used in some circumstances to transport students to and from school. It is true that the phrase "likely to be significantly used for the purpose of transporting . . . students to or from . . . schools" could arguably be considered to cover transit buses on regular common-carrier routes. Such buses have been explicitly excluded from the NHTSA's definition for several years, however. In light of the major standard-setting activity mandated by Congress in the Act, it is unlikely that such a broad change of regulatory direction would be contemplated by Congress without explicit discussion at some point in the legislative history. The legislative history contains no indication of such a Congressional intent, and this agency therefore concludes that such coverage was not intended. The boundaries of coverage are explicitly left by the statute to agency determination. In light of the purposes for which the school bus standards are being developed, their expected costs and benefits, and the modes of use of transit buses, the NHTSA has concluded that the continued exclusion of

buses designed and sold for operation as common carriers in urban transportation is in the public interest.

Mr. George Chambers suggested that limiting the exclusion of transit-type buses to those in urban areas appeared to be illogical. The NHTSA has satisfactorily used this limit for several years, and no problems have developed. If difficulties should appear in the future, further modification of the definition will be considered.

The MVMA and General Motors suggested that the existing description of transit-type buses ("operated" as a common carrier) more simply describes the excluded class than NHTSA's proposed language ("designed and sold"). By limiting the exclusion to buses designed and sold for use as common carriers, the definition conforms to the areas (design and sale) over which the agency has jurisdiction under the statute.

Wayne and the States of Wisconsin and Montana questioned the wisdom of limiting the definition to buses (10 passengers or more), when some school vehicles for handicapped students are equipped for fewer than 10 passengers and would not be required to meet the standards. The NHTSA has carefully considered extension of school bus standards to vehicles other than buses, but concludes that the standards in question have been developed for vehicles with bus seating and loading characteristics. For example, the proposed bus passenger seating and crash protection standard is calculated for cab-chassis- and van-type vehicles with seating for 10 passengers or more.

The VESC asked that only buses primarily used for transportation of students be considered school buses, so that buses used primarily for other purposes would not be able to display the distinctive school bus markings or be used to transport students after their systems had deteriorated in some more abusive use. The agency views the Congressional emphasis on "significant" use of a vehicle as a direction to extend the school bus standards to all buses that transport students, whether or not it is their primary purpose. For the same reason, the NHTSA does not agree with Blue Bird Body Company's opinion that "activity" buses should be excluded from the Congressionally-mandated standards.

It appears that Congress intended all the school bus standards to apply to buses that carry students to or from events related to their schools.

The definition basically relies on the sales transaction for determination of a vehicle's status. In some cases vehicles are leased for the purpose of transporting students, and it is for this reason that the definition refers to "introduction in interstate commerce" as well as sale. The description of this "no-sale" event has been simplified somewhat in response to the comments.

The California Department of Highway Patrol asked whether motor vehicles with a capacity of less than 11 occupants (12 as proposed) that transport students are preempted from regulation by the States as school buses. The answer is no. Since motor vehicles with a capacity of fewer than 11 occupants are not regulated as school buses by the NHTSA, State school bus regulations, to the extent that they apply to such smaller vehicles, would not be preempted by the NHTSA school bus standards. For instance, brake systems of MPV's are not regulated by the NHTSA and may be governed by State regulations. Of course, State regulations may not conflict with standards applicable to these vehicles as passenger cars or MPV's.

The State of Montana believed that the definitions of Type I and Type II school buses would be affected by this redefinition. In fact neither the present definition nor the new definition conflict with State or Highway Safety Standard definitions (such as the Pupil Transportation Standard No. 17) that regulate the operation of the vehicle, so long as those operational regulations do not dictate the design and performance of the vehicle to the degree that it is subject to a safety standard.

In consideration of the foregoing, the definition of "school bus" in Title 49 of the Code of Federal Regulations (49 CFR § 571.3) is amended

Effective date: October 27, 1976.

(Sec. 102, 103, 119, Pub. L. 89-563, 80 Stat. 718, as amended by Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1391, 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on December 23, 1975.

James B. Gregory
Administrator

December 31, 1975
40 F.R. 60033

Some commenters incorrectly assumed that the Congressional definition of "school bus" established an outer limit on the NHTSA's authority to regulate vehicles that transport students as such. To the contrary, the Congressional definition is a direction to the NHTSA that the new standards in this area must not be applied to a narrower category of vehicle. As long as that direction of Congress is satisfied, the NHTSA is, however, authorized to decide the scope of its standards, and in this case to expand on the Congressional definition to implement the mandate effectively.

In response to Mr. George Chambers' concern that the NHTSA definition is too broad, the NHTSA considers it reasonable to regulate all buses significantly used for transportation of students to and from all schools and related events, not just pre-primary, primary, and secondary schools. The NHTSA concludes that its rewording of the Act's "schools or events related to such schools" as "schools or related events" does not contradict Congressional direction.

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buses designed and sold for operation as common carriers in urban transportation is in the public interest.

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In consideration of the foregoing, the definition of "school bus" in Title 49 of the Code of Federal Regulations (49 CFR § 571.3) is amended

Effective date: October 27, 1976.

(Sec. 102, 103, 119, Pub. L. 89-563, 80 Stat. 718, as amended by Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1391, 1392, 1407) ; delegation of authority at 49 CFR 1.50)

Issued on December 23, 1975.

James B. Gregory
Administrator

December 31, 1975
40 F.R. 60033

PREAMBLE TO AMENDMENT TO PART 571—FEDERAL

MOTOR VEHICLE SAFETY STANDARDS

(Docket No. 75-9; Notice 4)

This notice amends section 571.7 of Title 49 of the Code of Federal Regulations by adding a new paragraph that specifies the conditions under which a trailer assembled from new and used components will be considered used for the purposes of the motor vehicle safety standards, associated regulations, and the National Traffic and Motor Vehicle Safety Act.

The National Highway Traffic Safety Administration (NHTSA) proposed the new paragraph (40 F.R. 58154, December 15, 1975) in response to petitions from two trailer manufacturers to modify the existing NHTSA opinion of what constitutes the "manufacture" of a motor vehicle under the National Traffic and Motor Vehicle Safety Act (the Act) (15 U.S.C. § 1381, et seq.). The Act authorizes the issuance of motor vehicle safety standards and prohibits, among other things, the manufacture of a motor vehicle on or after the date any applicable standard takes effect unless the vehicle conforms to the standard, and is so certified (15 U.S.C. §§ 1397 (a)(1)(A), 1403). Until now, the agency generally has distinguished "manufacture" from rebuilding by requiring retention of at least the chassis to constitute a rebuilding operation. In the case of trailers, the chassis consists of the running gear and main frame members.

A running gear assembly is the axle or axles, wheels, suspension and related components that support the frame and upper portions of the trailer. Since implementation of Standard No. 121, *Air Brake Systems* (which applies to the manufacture of most air-braked trailers), it has been impractical to certify a trailer manufactured from new components and a used running gear, because the used running gear is not designed to satisfy the requirements of the standard. Because many trailers do not have distinct "main

frame members," rebuilding without recertification also has been difficult. Recently the NHTSA eased the requirements for rebuilding trucks by an amendment that permits the use of "glider kits" in truck assembly without recertification under most circumstances.

With a view to further reducing the costs of Standard No. 121 without compromising safety, the agency tentatively concluded that reuse of trailer running gear assemblies was justified to the degree that they were reutilized in the past. To safeguard against evasion of the safety standards, the agency proposed an 8-year limit on the use of running gear assemblies for rebuilding operations. Additionally, it was proposed that a rebuilt trailer must be sold to the original owner under its original identity to prevent large-scale evasion of the standard by parties who might attempt to recycle old, unreliable equipment that would normally be junked.

The comments filed by trailer manufacturers and users uniformly supported the general nature of the revision. The Truck Trailer Manufacturers Association (TTMA) disagreed with the proposal, arguing that the agency's restriction on rebuilding should be somewhat stricter concerning increases in volumetric capacity (stretching) tank trailers. Fruehauf Corporation suggested a 4-year limit on rebuilding while others suggested a 10- or 12-year limit. Atlantic Container Line recommended a 15-year limit. The American Trucking Associations (ATA) considered the 8-year limit and the requirement for retained identity to be unworkable in view of current industry practices. Several commenters suggested a limit on rebuilding based on a percentage of the value of a comparable new trailer. Firestone stated that an 8-year limit on reuse of wheels and rims had no basis in safety. The

National Motor Vehicle Safety Advisory Council did not take a position on the proposal.

The Agency has considered each of the comments and concludes that trailer rebuilding can be somewhat expanded without interfering with the mandate of the Act that each vehicle "manufactured" on or after the effective date of an applicable standard must comply with it and be so certified. The cautionary approach of the TTMA appears to be limited to the potential hazards of increasing volumetric capacity of tank trailers, particularly those hauling hazardous materials. The NHTSA is not advocating unsafe rebuilding of truck trailers by this amendment, and relies on regulations of the Department of Transportation's Bureau of Motor Carrier Safety and Office of Hazardous Materials (49 CFR Parts 177, 178, 397) to specifically address safety of tank-type highway vehicles.

The agency proposed an 8-year limit on the rebuilding of trailers to prevent significant evasion of applicable safety standards by repeated reuse of a running gear assembly. The 8-year limit was suggested by the trailer manufacturer that petitioned for the proposed change. Comments generally stressed the difficulty in establishing a realistic approximation of trailer life, particularly in the case of "piggyback" or container chassis trailers where yearly highway mileage is low.

Practices for rebuilding trailers vary so significantly that the agency concludes that an age limit would not permit the legitimate reutilization of running gear assemblies that existed prior to the implementation of Standard 121. Therefore, the agency has withdrawn the age criterion for reuse of running gear assemblies.

The ATA along with a number of trucking companies such as Interway Corporation, Glendenning, and I&S McDaniel objected to the proposed requirement that the reassembled vehicle keep the identity of the vehicle from which the running gear was taken. Glendenning claims that such would restrict a user's flexibility to meet existing needs. I&S McDaniel said such a criterion would greatly reduce its flexibility in rebuilding trailers to different specifications. The Interway Corp. pointed out the warranty, parts replacement, and repair problems associated with

maintaining a trailer rebuilt by one company but identified as being built by another company.

The agency has considered the problems of maintaining every aspect of vehicle identity in the process of rebuilding. It is concluded that the requirement for use of the identification number of the existing vehicle in the reassembled vehicle will alone serve adequately to prevent avoidance of manufacturing responsibilities for newly manufactured vehicles. Therefore, the requirement for retention of identity is withdrawn with the exception of a requirement for continued use of the trailer's Vehicle Identification Number.

The third proposed restriction on rebuilding would require that the owner or lessor of the existing trailer also be the owner or lessor of the rebuilt trailer. The owner or lessor of the trailer in this case is the party who utilizes the trailer in its own operations and not someone who has bought the trailer simply to have it rebuilt for sale. Little comment was received on this restriction, and it appears to accord with the economic considerations underlying trailer rebuilding. Therefore, the restriction is made final as proposed. The agency considers that this limit and the requirement to continue a vehicle's VIN should adequately discourage rebuilding simply to avoid safety standards. The NHTSA can monitor the amount of rebuilding by means of its investigative authority under § 112 of the Act (15 U.S.C. § 1401) and can take action if evasion of the standards occurs.

Firestone Corporation assumed that the effect of the change would be that trailer rims and wheels could only be used for the period of the proposed restriction, and that the agency might be advocating reuse of wheels and rims for 8 years whatever their condition. Actually, the agency in no way intends to modify safe maintenance and operation practices by its action. Substitution of new components or reuse of old components is not advocated or discouraged by this action. In response to several suggestions that "frame attachment components" should not be mentioned in the description of a running gear assembly for fear that persons might reuse damaged attachment hardware, the reference has been deleted.

**PREAMBLE TO AMENDMENT TO PART 571—FEDERAL
MOTOR VEHICLE SAFETY STANDARDS
(Docket No. 75-9; Notice 4)**

This notice amends section 571.7 of Title 49 of the Code of Federal Regulations by adding a new paragraph that specifies the conditions under which a trailer assembled from new and used components will be considered used for the purposes of the motor vehicle safety standards, associated regulations, and the National Traffic and Motor Vehicle Safety Act.

The National Highway Traffic Safety Administration (NHTSA) proposed the new paragraph (40 F.R. 58154, December 15, 1975) in response to petitions from two trailer manufacturers to modify the existing NHTSA opinion of what constitutes the "manufacture" of a motor vehicle under the National Traffic and Motor Vehicle Safety Act (the Act) (15 U.S.C. § 1381, et seq.). The Act authorizes the issuance of motor vehicle safety standards and prohibits, among other things, the manufacture of a motor vehicle on or after the date any applicable standard takes effect unless the vehicle conforms to the standard, and is so certified (15 U.S.C. §§ 1397 (a)(1)(A), 1403). Until now, the agency generally has distinguished "manufacture" from rebuilding by requiring retention of at least the chassis to constitute a rebuilding operation. In the case of trailers, the chassis consists of the running gear and main frame members.

A running gear assembly is the axle or axles, wheels, suspension and related components that support the frame and upper portions of the trailer. Since implementation of Standard No. 121, *Air Brake Systems* (which applies to the manufacture of most air-braked trailers), it has been impractical to certify a trailer manufactured from new components and a used running gear, because the used running gear is not designed to satisfy the requirements of the standard. Because many trailers do not have distinct "main

frame members," rebuilding without recertification also has been difficult. Recently the NHTSA eased the requirements for rebuilding trucks by an amendment that permits the use of "glider kits" in truck assembly without recertification under most circumstances.

With a view to further reducing the costs of Standard No. 121 without compromising safety, the agency tentatively concluded that reuse of trailer running gear assemblies was justified to the degree that they were reutilized in the past. To safeguard against evasion of the safety standards, the agency proposed an 8-year limit on the use of running gear assemblies for rebuilding operations. Additionally, it was proposed that a rebuilt trailer must be sold to the original owner under its original identity to prevent large-scale evasion of the standard by parties who might attempt to recycle old, unreliable equipment that would normally be junked.

The comments filed by trailer manufacturers and users uniformly supported the general nature of the revision. The Truck Trailer Manufacturers Association (TTMA) disagreed with the proposal, arguing that the agency's restriction on rebuilding should be somewhat stricter concerning increases in volumetric capacity (stretching) tank trailers. Fruehauf Corporation suggested a 4-year limit on rebuilding while others suggested a 10- or 12-year limit. Atlantic Container Line recommended a 15-year limit. The American Trucking Associations (ATA) considered the 8-year limit and the requirement for retained identity to be unworkable in view of current industry practices. Several commenters suggested a limit on rebuilding based on a percentage of the value of a comparable new trailer. Firestone stated that an 8-year limit on reuse of wheels and rims had no basis in safety. The

National Motor Vehicle Safety Advisory Council did not take a position on the proposal.

The Agency has considered each of the comments and concludes that trailer rebuilding can be somewhat expanded without interfering with the mandate of the Act that each vehicle "manufactured" on or after the effective date of an applicable standard must comply with it and be so certified. The cautionary approach of the TTMA appears to be limited to the potential hazards of increasing volumetric capacity of tank trailers, particularly those hauling hazardous materials. The NHTSA is not advocating unsafe rebuilding of truck trailers by this amendment, and relies on regulations of the Department of Transportation's Bureau of Motor Carrier Safety and Office of Hazardous Materials (49 CFR Parts 177, 178, 397) to specifically address safety of tank-type highway vehicles.

The agency proposed an 8-year limit on the rebuilding of trailers to prevent significant evasion of applicable safety standards by repeated reuse of a running gear assembly. The 8-year limit was suggested by the trailer manufacturer that petitioned for the proposed change. Comments generally stressed the difficulty in establishing a realistic approximation of trailer life, particularly in the case of "piggyback" or container chassis trailers where yearly highway mileage is low.

Practices for rebuilding trailers vary so significantly that the agency concludes that an age limit would not permit the legitimate reutilization of running gear assemblies that existed prior to the implementation of Standard 121. Therefore, the agency has withdrawn the age criterion for reuse of running gear assemblies.

The ATA along with a number of trucking companies such as Interway Corporation, Glendenning, and I&S McDaniel objected to the proposed requirement that the reassembled vehicle keep the identity of the vehicle from which the running gear was taken. Glendenning claims that such would restrict a user's flexibility to meet existing needs. I&S McDaniel said such a criterion would greatly reduce its flexibility in rebuilding trailers to different specifications. The Interway Corp. pointed out the warranty, parts replacement, and repair problems associated with

maintaining a trailer rebuilt by one company but identified as being built by another company.

The agency has considered the problems of maintaining every aspect of vehicle identity in the process of rebuilding. It is concluded that the requirement for use of the identification number of the existing vehicle in the reassembled vehicle will alone serve adequately to prevent avoidance of manufacturing responsibilities for newly manufactured vehicles. Therefore, the requirement for retention of identity is withdrawn with the exception of a requirement for continued use of the trailer's Vehicle Identification Number.

The third proposed restriction on rebuilding would require that the owner or lessor of the existing trailer also be the owner or lessor of the rebuilt trailer. The owner or lessor of the trailer in this case is the party who utilizes the trailer in its own operations and not someone who has bought the trailer simply to have it rebuilt for sale. Little comment was received on this restriction, and it appears to accord with the economic considerations underlying trailer rebuilding. Therefore, the restriction is made final as proposed. The agency considers that this limit and the requirement to continue a vehicle's VIN should adequately discourage rebuilding simply to avoid safety standards. The NHTSA can monitor the amount of rebuilding by means of its investigative authority under § 112 of the Act (15 U.S.C. § 1401) and can take action if evasion of the standards occurs.

Firestone Corporation assumed that the effect of the change would be that trailer rims and wheels could only be used for the period of the proposed restriction, and that the agency might be advocating reuse of wheels and rims for 8 years whatever their condition. Actually, the agency in no way intends to modify safe maintenance and operation practices by its action. Substitution of new components or reuse of old components is not advocated or discouraged by this action. In response to several suggestions that "frame attachment components" should not be mentioned in the description of a running gear assembly for fear that persons might reuse damaged attachment hardware, the reference has been deleted.

In accordance with recently-enunciated Department of Transportation policy encouraging adequate analysis of the costs and other consequences of regulatory actions (41 F.R. 16201, April 16, 1976), the NHTSA herewith publishes its evaluation of the economic and other consequences of this proposal on the public and private sectors, including possible loss of safety benefits. In this case the change permits trailer users to continue their present practice of utilizing useable running gear in rebuilding of their trailers. It is therefore calculated that there are no new costs to the trucking industry associated with the change. It is anticipated that the benefits derived from the new braking systems will be delayed in the case of rebuilt trailers for a limited period.

In consideration of the foregoing, a new paragraph (f) is added to 49 CFR 571.7 *Applicability*.

Effective date: July 1, 1976. Because this amendment creates no additional requirement for any person, and to permit trailer rebuilding in cases where it has been impractical in the past, it is found that an immediate effective date is in the public interest.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50).

Issued on June 23, 1976.

Acting Administrator
Robert L. Carter

41 F.R. 27073
July 1, 1976

In accordance with recently-enunciated Department of Transportation policy encouraging adequate analysis of the costs and other consequences of regulatory actions (41 F.R. 16201, April 16, 1976), the NHTSA herewith publishes its evaluation of the economic and other consequences of this proposal on the public and private sectors, including possible loss of safety benefits. In this case the change permits trailer users to continue their present practice of utilizing useable running gear in rebuilding of their trailers. It is therefore calculated that there are no new costs to the trucking industry associated with the change. It is anticipated that the benefits derived from the new braking systems will be delayed in the case of rebuilt trailers for a limited period.

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Issued on June 23, 1976.

Acting Administrator
Robert L. Carter

41 F.R. 27073
July 1, 1976

**PREAMBLE TO AMENDMENT TO PART 571—FEDERAL
MOTOR VEHICLE SAFETY STANDARDS**

This amendment updates the addresses given for the Society of Automotive Engineers, Inc., and the United States of America Standards Institute in § 571.5 of 49 CFR Part 571.

Since this amendment is for the purpose of correcting inaccurate addresses and does not affect any substantive rights, notice and public procedure are not required and the amendment is made effective upon issuance.

In consideration of the foregoing, § 571.5 of Title 49 of the Code of Federal Regulations (49 CFR 571) is amended in part. . . .

Effective date: December 2, 1976.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on November 24, 1976.

Robert L. Carter
Associate Administrator
Motor Vehicle Programs

**41. F.R. 52880
December 2, 1976**

**PREAMBLE TO AMENDMENT TO PART 571—FEDERAL
MOTOR VEHICLE SAFETY STANDARDS**

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Issued on November 24, 1976.

Robert L. Carter
Associate Administrator
Motor Vehicle Programs

**41. F.R. 52880
December 2, 1976**

PREAMBLE TO AMENDMENT TO PART 571— FEDERAL MOTOR VEHICLE SAFETY STANDARDS

DEFINITIONS

(Docket No. 78-06; Notice 1)

This notice amends the general definitions section of Part 571 (49 CFR Part 571.3) by adding the definitions of "speed attainable in 1 mile" and "speed attainable in 2 miles." These definitions are currently contained in several motor vehicle safety standards. Since the terms are used in the requirements of more than one standard, it is appropriate to define them in the general definitional section which applies to all safety standards in Part 571.

Effective Date: March 9, 1978.

For further information contact:

Kathleen DeMeter, Office of Chief Counsel,
National Highway Traffic Safety Administration,
400 Seventh Street, S.W., Washington D.C. 20590 (202-426-1834).

Supplementary Information: Part 571.3 of Title 49, Code of Federal Regulations, contains definitions of terms used in the various motor vehicle safety standards. Many safety standards also contain their own definitional section which defines terms used only in the particular stand-

ard. When a term is used in more than a single standard, it is appropriate that its definition be relocated in the generally applicable Part 571.3 definitions section. This eliminates the need to republish the definition of a particular term in each standard in which the term is used.

The terms "speed attainable in 1 mile" and "speed attainable in 2 miles" are each defined in more than one safety standard. For the aforementioned reasons, this notice deletes the definitions of the terms from the standards in which they appear and adds them to 571.3. Accordingly, 49 CFR Part 571 is amended:

(Sec. 102, 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1391, 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on February 28, 1978.

Joan Claybrook
Administrator

**43 F.R. 9606
March 9, 1978**

PREAMBLE TO AMENDMENT TO PART 571— FEDERAL MOTOR VEHICLE SAFETY STANDARDS

DEFINITIONS

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Issued on February 28, 1978.

Joan Claybrook
Administrator

**43 F.R. 9606
March 9, 1978**

PREAMBLE TO AMENDMENT TO PART 571— FEDERAL MOTOR VEHICLE SAFETY STANDARDS

DEFINITIONS

(Docket No. 78-02; Notice 1)

This notice is an interpretative amendment of the agency's definition of "unloaded vehicle weight." It grants petitions from several manufacturers asking the agency to amend the definition of this term to reflect an existing agency interpretation concerning the definition.

Effective Date: March 9, 1978.

For further information contact:

Mr. William Smith, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2242).

Supplementary Information: This notice amends Title 49, Code of Federal Regulations, Part 571.3 by clarifying the meaning of "unloaded vehicle weight." "Unloaded vehicle weight" is currently defined as "the weight of a vehicle with maximum capacity of all fluids necessary for operation of the vehicle, but without cargo or occupants."

In July 1976, the NHTSA issued a letter of interpretation in response to a request from the Jeep Corporation concerning the definition of "unloaded vehicle weight." In that interpretation, the agency stated that the unloaded weight of a vehicle does not include the weight of those accessories that are ordinarily removed from a vehicle when they are not in use.

The Chrysler Corporation and the Truck Body and Equipment Association (TBEA) subsequently petitioned the NHTSA to amend the definition of "unloaded vehicle weight" to reflect the existing agency interpretation. Further, TBEA and Chrysler requested an even broader classification of the accessories whose weight would not be included in the computation of "unloaded vehicle weight." Chrysler and TBEA

asked that the weight of accessories which are not normally removed from a vehicle when they are not in use also be excluded from the computation of "unloaded vehicle weight." The agency granted the petitions to amend the definition to reflect the existing agency interpretation but denied the portions of both petitions requesting an extension of that interpretation.

The agency has interpreted "unloaded vehicle weight" as excluding the weight of accessories ordinarily removed from a vehicle when they are not in use in order to approximate more closely the actual unloaded weight of a vehicle. The type of equipment or accessories not to be included in computing "unloaded vehicle weight" includes: snow plows, spreaders, and tow bars, among others.

To codify the existing agency interpretation, the definition of "unloaded vehicle weight" in 49 CFR Part 571.3, definitions is hereby amended. . .

Since this amendment is interpretative in nature, and reflects current understanding and practice, it is found for good cause that notice and public procedures thereon are unnecessary, and that an immediate effective date is in the public interest.

The principle author of this notice is Roger Tilton of the Office of Chief Counsel.

(Secs. 103 and 109, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on March 1, 1978.

Joan Claybrook
Administrator

**43 F.R. 9605
March 9, 1978**

PREAMBLE TO AMENDMENT TO PART 571— FEDERAL MOTOR VEHICLE SAFETY STANDARDS

DEFINITIONS

(Docket No. 78-02; Notice 1)

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Issued on March 1, 1978.

Joan Claybrook
Administrator

43 F.R. 9605
March 9, 1978

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